

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
THE LICENSURE OF INSURERS AND RELATED ENTITIES,
LIFE INSURANCE, AND CERTAIN GROUP BENEFIT PROGRAMS
FOR GOVERNMENTAL EMPLOYEES

Submitted to the 77th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas
2001

transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and Texas Department of Insurance, respectively. Accordingly, the revised law substitutes a reference to the commissioner for a reference to the State Board of Insurance.

(2) Subsection (i), V.T.I.C. Article 8.24, states that a Mexican casualty insurance company is entitled to an appeal under V.T.I.C. Article 1.04, revised as Subchapter D, Chapter 36. The revised law omits that statement as unnecessary because Subchapter D, Chapter 36, provides sufficient authority for the right to appeal. The omitted law reads:

Any carrier aggrieved by an order of the State Board of Insurance hereunder shall be entitled to appeal therefrom pursuant to the provisions of Article 1.04 of this code.

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CHAPTER 1101. LIFE INSURANCE
SUBCHAPTER A. REQUIRED POLICY PROVISIONS
Revised Law

Sec. 1101.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a life insurance policy:

- (1) issued or delivered in this state; or
- (2) issued by a life insurance company organized under the laws of this state. (V.T.I.C. Art. 3.44 (part).)

Source Law

Art. 3.44. [No] policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company organized under the laws of this State, [unless the same shall contain provisions substantially as follows:]

Revised Law

Sec. 1101.002. POLICY PROVISIONS REQUIRED. (a) Except as provided by this section, a life insurance policy must contain provisions that are substantially the same as the provisions required by this subchapter.

(b) A single premium life insurance policy is not required to contain a provision under this subchapter to the extent that the provision is not applicable to a single premium insurance policy. (V.T.I.C. Art. 3.44 (part).)

Source Law

Art. 3.44. No [policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company organized under the laws of this State,] unless the same shall contain provisions substantially as follows:

11. . . . Any foregoing provision, not applicable to single premium policies shall, to that extent, not be incorporated therein. . . .

Revised Law

Sec. 1101.003. ENTIRE CONTRACT. (a) A life insurance policy constitutes the entire contract between the parties, except that if the application is made a part of the contract, the policy and the application constitute the entire contract.

(b) A life insurance policy must provide that the policy or

the policy and the application for the policy constitute the entire contract between the parties. (V.T.I.C. Arts. 3.44 (part); 21.24.)

Source Law

[Art. 3.44]

3. That the policy, or policy and application, shall constitute the entire contract between the parties and

Art. 21.24. Every policy of insurance issued or delivered within this State by any life insurance company doing business within this State shall contain the entire contract between the parties, and the application therefor may be made a part thereof.

Revised Law

Sec. 1101.004. PREMIUMS PAYABLE IN ADVANCE. A life insurance policy must provide that all premiums are payable in advance at the home office of the company that issues the policy or to an agent of the company on delivery of a receipt signed by at least one of the company officers designated in the policy. (V.T.I.C. Art. 3.44 (part).)

Source Law

1. That all premiums shall be payable in advance either at the home office of the company or to an agent of the company upon delivery of a receipt signed by one or more of the officers who are designated in the policy. . . .

Revised Law

Sec. 1101.005. GRACE PERIOD. (a) Except as provided by Subsection (b), a life insurance policy:

(1) must contain a provision for a grace period of at least one month for the payment of each premium after the first payment during which the policy remains in force; and

(2) may:

(A) provide for an interest charge on a premium paid during a grace period; or

(B) provide that if an insured dies during a grace period the overdue premium will be deducted from any settlement made under the policy.

(b) The commissioner by rule may require a life insurance policy issued under Section 884.402(3) to contain a grace period that is longer than the grace period required by this section. (V.T.I.C. Art. 3.44 (part).)

Source Law

2. For a grace period of at least one month, for the payment of every premium after the first, which may be subject to

an interest charge, during which month the insurance shall continue in force, which may stipulate that if the insured shall die during the period of grace the overdue premium will be deducted in any settlement under the policy, provided, however, the State Board of Insurance may, by rule, provide for a longer grace period for policies issued under Subsection (b), Section 1, Article 22.23A, Insurance Code. . . .

Revisor's Note

Subdivision 2, V.T.I.C. Article 3.44, refers to the "State Board of Insurance." Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Accordingly, the reference to the State Board of Insurance has been changed to the "commissioner" in the revised law.

Revised Law

Sec. 1101.006. INCONTESTABILITY. (a) Except as provided by Subsection (b), a life insurance policy must provide that a policy in force for two years from its date of issue during the lifetime of the insured is incontestable, except for nonpayment of premiums.

(b) At the option of the company, a life insurance policy may provide that the policy may be contested at any time for violation of policy conditions relating to naval and military service in a time of war. (V.T.I.C. Art. 3.44 (part).)

Source Law

3. That the policy, or policy and application, [shall constitute the entire contract between the parties and] shall be incontestable after it has been in force during the lifetime of the insured for two (2) years from its date, except for non-payment of premiums, and which provisions may, at the option of the company, contain an exception for violation of the conditions of the policy relating to naval and military service in time of war. . . .

Revised Law

Sec. 1101.007. STATEMENTS OF INSURED. A life insurance policy must provide that, in the absence of fraud, a statement made by an insured is considered a representation and not a warranty. (V.T.I.C. Art. 3.44 (part).)

Source Law

4. That all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties. . . .

Revised Law

Sec. 1101.008. ADJUSTMENT OF AMOUNT PAYABLE IF AGE OF INSURED IS UNDERSTATED. A life insurance policy must provide that if the age of an insured has been understated, the amount payable under the policy is the amount that the premium paid would have purchased if the insured's age had been stated correctly.
(V.T.I.C. Art. 3.44 (part).)

Source Law

5. That if the age of the insured has been understated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age. . . .

Revised Law

Sec. 1101.009. POLICY LOANS. (a) The following policies are not required to comply with this section:

- (1) a term life insurance policy;
- (2) a pure endowment contract issued or granted:
 - (A) as an original contract; or
 - (B) in exchange for a lapsed or surrendered policy; or
- (3) a policy that does not provide for cash values or nonforfeiture values and that meets the requirements of Section 884.403(b).

(b) A life insurance policy must provide that the company that issues the policy will loan to the policy owner at a specified interest rate an amount equal to the sum of the policy's cash value and any dividend additions to the policy, or, at the policy owner's option, an amount less than that sum, if:

- (1) the policy is in force;
- (2) the premiums for the policy have been paid for at least three full years; and
- (3) the policy is properly assigned.

(c) A life insurance policy must also provide that:

- (1) a policy loan is secured only by the policy;
- (2) the company may deduct from a policy loan the sum of the amount of existing debt on the policy and the balance of unpaid premiums for the current policy year;
- (3) the company may collect in advance interest on the policy loan to the end of the current policy year; and
- (4) failure to repay the policy loan or interest on the loan does not void the policy until the total amount owed under the loan equals or exceeds the policy's cash value.

(d) A life insurance policy may provide that a policy loan may be deferred for a period not to exceed six months after the date the application for the loan is made.

(e) A life insurance policy may not require a prerequisite to a policy loan if the prerequisite is not required or

authorized by this section. (V.T.I.C. Art. 3.44 (part).)

Source Law

6. That after three (3) full years' premiums have been paid, the company, at any time while the policy is in force, will advance upon proper assignment of the policy and upon the sole security thereof at a specified rate of interest a sum equal to, or at the option of the owner of the policy less than, the cash value of the policy and of any dividend additions thereto; and that the company may deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premiums for the current policy year, and may collect interest in advance on the loan to the end of the current policy year, which provision may also provide that such loans may be deferred for not exceeding six (6) months after the application therefor is made. It shall also be stipulated in the policy that failure to repay any such advance, or to pay interest, shall not void the policy until the total indebtedness thereon to the company shall equal or exceed the cash value. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurance, nor in pure endowments issued or granted as original policies, or in exchange for lapsed or surrendered policies or for policies not providing for cash values or non-forfeiture values meeting the requirements of Subsection (b), Section 1, Article 22.23A, Insurance Code. . . .

Revisor's Note

Subdivision 6, V.T.I.C. Article 3.44, refers to an "advance" of an amount of money against a life insurance policy and to a "loan value" of the advance. The revised law substitutes "loan" for "advance" to ensure consistent use of terminology in this code.

Revised Law

Sec. 1101.010. NONFORFEITURE BENEFITS AND CASH SURRENDER VALUES IN GENERAL. A life insurance policy must provide nonforfeiture benefits, including cash surrender values, in accordance with:

- (1) Subchapter D; or
 - (2) Chapter 1105, for a policy issued on or after the date determined under Section 1105.002(a) or (b), as applicable.
- (V.T.I.C. Art. 3.44 (part).)

Source Law

7. Provisions for non-forfeiture benefits in the event of default in premium payments and for cash surrender values in accordance with the provisions of this Section 7 and Section 8 of this Article 3.44 in the case of policies issued prior to the

operative date of Article 3.44a (the Standard Non-forfeiture Law), and in accordance with provisions of Article 3.44a in the case of policies issued on or after said date. . . . This provision shall not be required in term insurance. . . .

Revisor's Note

Subdivision 7, V.T.I.C. Article 3.44, requires policies issued "prior to the operative date of Article 3.44a (the Standard Non-forfeiture Law)" to contain provisions for nonforfeiture benefits and cash surrender values in accordance with Subdivisions 7 and 8, V.T.I.C. Article 3.44. Policies issued on or after that date are required to contain provisions for nonforfeiture benefits and cash surrender values in accordance with Article 3.44a.

Subdivisions 7 and 8, V.T.I.C. Article 3.44, are revised in this chapter as Subchapter D. Accordingly, the revised law in this section requires policies issued before the "operative date of Article 3.44a" to contain provisions in accordance with that subchapter. Subchapter D also contains Subdivision 9, V.T.I.C. Article 3.44, a provision that is not expressly mentioned in Subdivision 7. In context, however, it is clear that Subdivisions 7, 8, and 9 are intended to operate together and apply to the same group of policies described by Subdivision 7.

V.T.I.C. Article 3.44a is revised as Chapter 1105. Section 13, V.T.I.C. Article 3.44a, which defines the "operative date" of that article, is revised as Section 1105.002. That section of the revised law omits the reference to "the operative date" of the law and substitutes a clear statement of the law's applicability to certain policies. Accordingly, the revised law in this section, for purposes of describing the policies required to contain provisions for nonforfeiture benefits and cash surrender values in accordance with Chapter 1105, omits the reference to "the operative date" and substitutes language consistent with Section 1105.002.

Revised Law

Sec. 1101.011. TIME FOR SETTLEMENT OF CLAIM. A life insurance policy must provide that settlement under the policy after the death of the insured will be made not later than two months after the date of receipt of proof of:

- (1) the death; and
- (2) the right of the claimant to the proceeds of the policy. (V.T.I.C. Art. 3.44 (part).)

Source Law

10. That when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of or not later than two (2) months after due proof of death and the right of the claimant to the proceeds. . . .

Revised Law

Sec. 1101.012. TABLE OF INSTALLMENTS OF PROCEEDS. A life insurance policy that provides that the policy proceeds are payable in installments must include a table that shows the amount of the installments. (V.T.I.C. Art. 3.44 (part).)

Source Law

11. A table showing the amounts of installments in which the policy may provide its proceeds may be payable. . . .

Revised Law

Sec. 1101.013. STATEMENT OF MAXIMUM AMOUNT PAYABLE UNDER FAMILY GROUP LIFE INSURANCE POLICY. A family group life insurance policy must clearly state:

(1) the maximum amount that is payable to the payee in the policy on the death of an insured or insureds; and

(2) any terms under which an amount other than the maximum amount of the policy is payable. (V.T.I.C. Art. 3.44 (part).)

Source Law

12. In all family group life insurance policies there shall be clearly stated the maximum amount which is payable to the payee in the policy in the case of the death of any insured person or persons. Regardless of what the maximum amount of said policy is or may be, any provision for payment other than the full amount of said policy shall be clearly stated in the policy.

[Sections 1101.014-1101.050 reserved for expansion]

SUBCHAPTER B. PROHIBITED POLICY PROVISIONS

Revised Law

Sec. 1101.051. APPLICABILITY OF SUBCHAPTER. Unless otherwise provided by this subchapter, this subchapter applies to a life insurance policy:

(1) issued or delivered in this state; or

(2) issued by a life insurance company organized in this state. (V.T.I.C. Art. 3.45 (part).)

Source Law

Art. 3.45. [No] policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company incorporated under the laws of this State, [if it contains any of the following provisions:]

Revisor's Note

V.T.I.C. Article 3.45 refers to a life insurance company "incorporated" under the laws of this state. The revised law

substitutes "organized" for "incorporated" to provide for consistent use of terminology in this code.

Revised Law

Sec. 1101.052. EXCLUSION. Unless otherwise provided by this subchapter, this subchapter does not apply to a policy issued instead of or in exchange for a policy issued before July 10, 1909. (V.T.I.C. Art. 3.45 (part).)

Source Law

3. . . . No foregoing provision relating to policy forms shall apply to policies issued in lieu of, or in exchange for, any other policies issued before July 10, 1909.

Revised Law

Sec. 1101.053. CERTAIN LIMITATIONS PERIODS. A life insurance policy may not include a provision that limits the time during which an action under the policy may be commenced to a period of less than two years after the date the cause of action accrues. (V.T.I.C. Art. 3.45 (part).)

Source Law

Art. 3.45. No [policy of life insurance shall be issued or delivered in this State, or be issued by a life insurance company incorporated under the laws of this State,] if it contains any of the following provisions:

1. A provision limiting the time within which any action at law or in equity may be commenced to less than two (2) years after the cause of action shall accrue. . . .

Revisor's Note

Subdivision 1, V.T.I.C. Article 3.45, refers to an action "at law or in equity." The revised law omits the reference as unnecessary because an action can only be brought at law or in equity.

Revised Law

Sec. 1101.054. RETROACTIVE ISSUANCE OR EFFECT; EXCHANGE OR CONVERSION. (a) Except as provided by Subsection (b), a life insurance policy may not contain a provision under which the policy is issued or takes effect on a date more than six months before the date of the original policy application if the provision causes the insured to rate at an age that is younger than the age of the insured on the date of the application. For the purposes of this subsection, the age of the insured on the date of the application is the age of the insured on the birthday of the insured that is nearest to the date of the application.

(b) An issuer of a life or endowment insurance policy or annuity contract may, with the consent of the policyholder or

contract holder, exchange the policy or contract for, or convert the policy or contract into, a policy of another plan of insurance or an endowment or annuity contract as of a date not earlier than the effective date of the original policy or contract.

(c) If an exchange or conversion is made under Subsection (b) and the newly written policy or contract is issued as of a date earlier than the date of the application for exchange or conversion, the amount of life or endowment insurance or annuity provided under the newly written policy or contract may not exceed the greater of:

(1) the amount that the premium paid for the original policy or contract would have purchased on the plan of the newly written policy or contract for an individual the age of the insured on the effective date of the original policy or contract; or

(2) the amount of the original policy or contract.

(V.T.I.C. Art. 3.45 (part).)

Source Law

2. A provision by which the policy shall purport to be issued or to take effect more than six (6) months before the original application for the insurance was made, if thereby the insured would rate at any age younger than his age at date when the application was made, according to his age at nearest birthday, except that, any life insurance company, with the consent of the policyholder, may exchange, alter, or convert any policy of life or endowment insurance or annuity issued by it for or into a policy of another plan of insurance or annuity as of a date not prior to the effective date of the original policy or annuity being exchanged, altered, or converted. If such newly written policy or annuity is issued as of a date prior to the date of application for exchange, alteration, or conversion, the amount of insurance or annuity thereunder shall not exceed, on the succeeding plan, whichever is the greater of the following two amounts:

a. the amount that the premium paid for the original policy or annuity would have purchased at the age of the insured on the effective date of said original policy or annuity, on the plan of the newly written policy or annuity; or

b. the amount of the original policy or annuity. . . .

Revisor's Note

Subdivision 2, V.T.I.C. Article 3.45, refers to "exchange, alteration, or conversion" of certain policies or contracts. A policy or contract that is altered is converted into another policy or annuity. Therefore, the revised law omits the

references to "alteration" because the meaning of that term is included within the meaning of "conversion."

Revised Law

Sec. 1101.055. SETTLEMENT ON MATURITY LESS THAN FACE VALUE.

(a) Except as provided by Subsection (b), a life insurance policy may not contain a provision for a settlement at maturity that is less than the amount insured on the face of the policy plus the amount of any dividend additions to the policy minus the sum of the amount of any debt to the company that issues the policy and the amount of any premium that may be deducted from the settlement under the terms of the policy.

(b) A life insurance policy may provide for a settlement that will be less than the amount required under Subsection (a) if the death of the insured is:

(1) by the insured's own hand regardless of whether the insured is sane or insane;

(2) caused by following a hazardous occupation that is stated in the policy; or

(3) the result of aviation activities under conditions specified in the policy and approved by the department under Article 3.42. (V.T.I.C. Art. 3.45 (part).)

Source Law

3. A provision for any mode of settlement at maturity of less value than the amounts insured on the face of the policy, plus dividend additions, if any, less any indebtedness to the company on the policy, and less any premium that may by the terms of the policy be deducted; provided, however, that any company may issue a policy promising a benefit less than the full benefit in case of the death of the insured by his own hand while sane or insane, or by following stated hazardous occupations, or in the event the death of the insured should result from aviation activities under the conditions specified in the policy, to be approved by the Board of Insurance Commissioners, as provided in this chapter. . . .

Revisor's Note

(1) Subdivision 3, V.T.I.C. Article 3.45, refers to the "Board of Insurance Commissioners." Under Chapter 499, Acts of the 55th Legislature, Regular Session, 1957, administration of the insurance laws of this state was reorganized and the powers and duties of the Board of Insurance Commissioners were transferred to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other

insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Accordingly, the reference to the Board of Insurance Commissioners has been changed appropriately.

(2) Subdivision 3, V.T.I.C. Article 3.45, provides that the subdivision does not apply to "purely accident and health policies." The revised law omits the provision as unnecessary, because the subdivision only applies to a life insurance policy, and an accident and health policy is not a life insurance policy. The omitted law reads:

3. . . . This provision shall not
apply to purely accident and health
policies. . . .

(3) Subdivision 3, V.T.I.C. Article 3.45, states that a policy benefit may be reduced for a death resulting from aviation activities "under the conditions specified in the policy, to be approved by the Board of Insurance Commissioners, as provided in this chapter," meaning Chapter 3 of this code. The portions of Chapter 3 that govern approval of life insurance policies are contained in Article 3.42 of this code. The revised law is drafted accordingly.

Revised Law

Sec. 1101.056. PRELIMINARY TERM INSURANCE OF MORE THAN ONE YEAR IN LEVEL PREMIUM POLICY. (a) Sections 1101.051 and 1101.052 do not apply to this section.

(b) This section does not apply to a life insurance policy issued on or after the date determined under Section 1105.002(a) or (b), as applicable.

(c) A level premium life insurance policy may not be issued or sold in this state by any company if the policy provides for more than one year of preliminary term insurance. (V.T.I.C. Art. 3.46.)

Source Law

Art. 3.46. No level premium policy of life insurance shall be issued or sold by any company in this state which provides for more than one year preliminary term insurance. The provisions of this Article shall not apply to policies and contracts issued on or after the operative date of Article 3.44a (the Standard Non-forfeiture Law).

Revisor's Note

(1) The language in Subsection (a) of the revised law is new and has been added to maintain any distinction that may exist in the applicability of V.T.I.C. Article 3.46, revised in this section, and V.T.I.C. Article 3.45, also revised in this subchapter.

(2) V.T.I.C. Article 3.46 states that the article does not apply to certain "policies and contracts." The article only regulates the issuance or sale of a "policy." Therefore, the revised law omits as unnecessary the reference to "contracts."

[Sections 1101.057-1101.100 reserved for expansion]

SUBCHAPTER C. POLICY PROVISIONS REQUIRED BY OTHER
JURISDICTIONS

Revised Law

Sec. 1101.101. REQUIRED POLICY PROVISIONS. (a) A policy issued in this state by a life insurance company not organized under the laws of this state may contain any provision that the law of the state, territory, district, or county under which the company is organized requires the policy to contain.

(b) Notwithstanding Article 3.42, a policy issued or delivered in another state, territory, district, or county by a life insurance company organized under the laws of this state may contain any provision required by the laws of that state, territory, district, or county. (V.T.I.C. Art. 3.47.)

Source Law

Art. 3.47. The policies of a life insurance company not organized under the laws of this State may contain any provision which the law of the state, territory, district or county under which the company is organized, prescribes shall be in such policies when issued in this State; and the policies of a life insurance company organized under the laws of this State may, when issued or delivered in any other state, territory, district or county contain any provision required by the laws of the state, territory, district or county in which the same are issued, anything in this chapter to the contrary notwithstanding.

Revisor's Note

V.T.I.C. Article 3.47, states that a policy may contain certain provisions "anything in this chapter to the contrary notwithstanding," meaning Chapter 3 of this code. The portions of Chapter 3 that govern approval of life insurance policies are contained in Article 3.42 of this code. The revised law is drafted accordingly.

[Sections 1101.102-1101.150 reserved for expansion]

SUBCHAPTER D. RIGHTS OF INSURED UNDER CERTAIN OLDER
POLICIES

Revised Law

Sec. 1101.151. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a life insurance policy issued before a date described by Section 1101.010(a)(2). A term life insurance policy is not required to comply with this subchapter. (New.)

Revisor's Note

Section 1101.151 is added to the revised law to clarify the

application of this subchapter.

Revised Law

Sec. 1101.152. STIPULATED FORM OF INSURANCE. In case of a default in the payment of a premium after premiums have been paid for three years, a life insurance policy to which this subchapter applies must contain a provision that secures a stipulated form of insurance on the life of the insured. (V.T.I.C. Art. 3.44 (part).)

Source Law

7. . . . Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: a provision which, in the event of default in the premium payments after premiums shall have been paid for three (3) full years, shall secure a stipulated form of insurance on the life of the Insured, . . .

Revised Law

Sec. 1101.153. COMPUTATION OF NET VALUE OF STIPULATED FORM OF INSURANCE. (a) Except as provided by Subsection (c), the net value of a life insurance policy secured under Section 1101.152 must be equal to the amount of the reserve on the policy for which premium payment is in default and on any dividend additions to that policy on the date of default, less the sum of:

(1) not more than two and one-half percent of the amount insured under the policy and any existing dividend additions to the policy; and

(2) the amount of any existing indebtedness to the company on the policy.

(b) The reserve described by Subsection (a) excludes any reserve for disability or accidental death benefits.

(c) The net value of a life insurance policy that is secured under Section 1101.152 for a policy other than an industrial life insurance policy and that is issued to insure a female risk may be computed using an age not more than three years younger than the actual age of the insured if the policy uses the same age differential to compute the policy reserve.

(d) Except as provided by Subsection (e), the amount of the policy reserve under Subsection (a) must be computed according to the mortality table, interest rate, and method adopted in the policy for computing the reserve.

(e) In computing the value of paid-up term insurance with any accompanying pure endowment, a rate of mortality may be assumed that is not more than:

(1) 130 percent of the rate of mortality according to the applicable table, or, for a substandard policy, the adopted multiple of that mortality rate, if the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary

Mortality Table is adopted for computing the reserve; or

(2) the rate of mortality shown by the Commissioners 1958 Extended Term Insurance Table, or, for a substandard policy, the adopted multiple of that mortality rate, if the Commissioners 1958 Standard Ordinary Mortality Table is adopted for computing the reserve.

(f) Subject to Subsection (g), a life insurance policy must state:

(1) the amount and term of the insurance to be secured in accordance with Section 1101.152 computed as if there were no indebtedness on the policy and no dividend additions to the policy; and

(2) the mortality table, interest rate, method, and, if the policy is issued to insure the life of a woman, any age differential, that will be used to compute the policy reserve.

(g) A mortality table, interest rate, method, or age differential stated under Subsection (f) must be authorized by law to compute the reserve liability on the policy. (V.T.I.C. Art. 3.44 (part).)

Source Law

7. . . . Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: . . . the net value of which shall be equal to the reserve (exclusive of any reserve for disability or accidental death benefits) at the date of default on the policy, and on any dividend additions thereto, according to the mortality table, rate of interest and method adopted for computing such reserve, less a sum of not more than two and one-half per cent (2 1/2%) of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; provided, however, that if the mortality table adopted for computing such reserve is either the American Men Ultimate Table of Mortality or the Commissioners 1941 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than one hundred thirty per cent (130%) of the rate of mortality according to such adopted table or, in case of sub-standard policies, the adopted multiple thereof; provided further, that if the mortality table adopted for computing such reserve is the Commissioners 1958 Standard Ordinary Mortality Table, then in calculating the value of paid-up term insurance with accompanying pure endowment, if any, a rate of mortality may be assumed which is not more than that shown in the Commissioners 1958 Extended Term Insurance Table, or, in case of sub-standard policies, the adopted multiple thereof; and provided further as respects policies on female risks, other than policies of industrial

insurance, the net value of any such stipulated form of insurance may be calculated according to an age not more than three (3) years younger than the actual age of the insured, provided the same age differential has been used in computing the policy reserves under such policies. The policy shall state: (1) the amount and term of the stipulated form of insurance calculated upon the assumption of no indebtedness on the policy and no dividend additions thereto; and (2) the method, rate of interest, and mortality table (including any age differential applicable in making such computations on policies issued to female risks) for computing the policy reserve, which must be such as may be authorized by law for use in computing the reserve liability of the company on such policy. . . .

Revised Law

Sec. 1101.154. SURRENDER OF POLICY FOR SPECIFIED CASH SURRENDER VALUE. (a) A life insurance policy to which this subchapter applies must:

(1) provide within one month after a due date for a premium, after premiums have been paid for three years, the policy may be surrendered to the company that issues the policy at the company's home office in return for an amount equal to the cash value of the policy; and

(2) specify the cash value of the policy, which, subject to Subsection (b), may not be less than the amount that would otherwise be available to secure insurance in accordance with Section 1101.152.

(b) The cash value of the policy may not exceed the amount of the policy reserve.

(c) The policy may provide that the company that issues the policy may defer payment of the cash value of the policy for a period not to exceed six months after the date of application for the payment. (V.T.I.C. Art. 3.44 (part).)

Source Law

7. . . . Policies issued prior to the operative date of Article 3.44a shall contain a provision substantially as follows: Such provision shall also stipulate that the policy may be surrendered to the company at its home office within one month from the due date of any premium for its cash value, which shall be specified in the policy and which shall be at least equal to the sum which would otherwise be available for the purchase of insurance, as aforesaid, but not more than the reserve on the policy, and may stipulate that the company may defer payment for not more than six (6) months after application therefor is made. This provision shall not be required in term insurance. . . .

Revised Law

Sec. 1101.155. CASH VALUE TABLE. A life insurance policy to which this subchapter applies must include a table that shows in dollar amounts the cash value of the policy and the options available to the policy owner if the owner defaults in premium payments during each of the first 20 years that the policy will be in force or each of the years during which premiums are payable, beginning with the first year in which the cash values and options are available. (V.T.I.C. Art. 3.44 (part).)

Source Law

8. In the case of policies issued prior to the operative date of Article 3.44a, a table showing in figures the cash values, and the options available under the policy each year, upon default in premium payments during the first twenty (20) years of the policy or the period during which premiums are payable, beginning with the year in which such values and options become available. . . .

Revised Law

Sec. 1101.156. PURCHASE OF OTHER INSURANCE AND REINSTATEMENT. A life insurance policy to which this subchapter applies must provide that if there is a default in premium payments, the value of the policy shall be applied to the purchase of other insurance and the original life insurance policy may be reinstated within three years after the date of default if:

- (1) other insurance purchased with the value of the original life insurance policy remains in force;
 - (2) the original life insurance policy has not been surrendered to the company and canceled;
 - (3) the company receives evidence of insurability that is satisfactory to the company; and
 - (4) the arrears of premiums are paid with interest.
- (V.T.I.C. Art. 3.44 (part).)

Source Law

9. That if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurances; and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three (3) years from such default upon evidence of insurability satisfactory to the company and payments of arrears of premiums with interest. . . .

CHAPTER 1102. PAYMENT OF INSURANCE BENEFITS
IN CURRENCY

- Sec. 1102.001. DEFINITIONS 1411
Sec. 1102.002. BENEFITS PAYABLE IN CURRENCY 1413
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PAYABLE IN FOREIGN CURRENCY 1414
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CHAPTER 1102. PAYMENT OF INSURANCE BENEFITS
IN CURRENCY

Revised Law

Sec. 1102.001. DEFINITIONS. In this chapter:

(1) "Insurance policy" means a policy, certificate, or contract of:

(A) life, term, or endowment insurance, including an annuity or pure endowment contract;

(B) group life or term insurance, including a group annuity contract;

(C) industrial life insurance;

(D) accident or health insurance;

(E) group accident or health insurance;

(F) hospitalization insurance;

(G) group hospitalization insurance;

(H) medical or surgical insurance;

(I) group medical or surgical insurance; or

(J) fraternal benefit insurance.

(2) "Insurer" means any insurer, including a:

(A) life, accident, health, or casualty insurance company;

(B) mutual life insurance company;

(C) mutual insurance company other than a life insurance company;

(D) mutual or natural premium life insurance company;

(E) general casualty company;

(F) Lloyd's plan or a reciprocal or interinsurance exchange;

(G) fraternal benefit society; or

(H) group hospital service corporation. (V.T.I.C.

Art. 3.42A, Sec. (a) (part).)

Source Law

(a) [All benefits payable under] any policy, contract, or certificate of life, term, or endowment insurance, group life or term insurance, industrial life insurance, accident or health insurance, group accident or health insurance, hospitalization insurance, group hospitalization insurance, medical or surgical

insurance, group medical or surgical insurance, fraternal benefit insurance, annuity or pure endowment contract, or group annuity contract [delivered, issued, or used in this state by] a life, accident, health, or casualty insurance company, a mutual life insurance company, mutual insurance company other than life, mutual, or natural premium life insurance company, general casualty company, Lloyd's reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service, or any other insurer

Revisor's Note

(1) The definition of "insurance policy" is derived from Section (a), V.T.I.C. Article 3.42A. A part of that law has been revised as a definition for drafting convenience and for the convenience of the reader.

(2) Section (a), V.T.I.C. Article 3.42A, refers to a "group hospitalization service." The phrase describes an entity most commonly referred to as a "group hospital service corporation," which is governed by V.T.I.C. Chapter 20, revised as Chapter 842. Consequently, the revised law substitutes "group hospital service corporation" for "group hospitalization service" to provide for consistent use of terminology throughout this code.

Revised Law

Sec. 1102.002. BENEFITS PAYABLE IN CURRENCY. Each benefit payable under an insurance policy delivered, issued, or used in this state by an insurer shall be payable in currency. (V.T.I.C. Art. 3.42A, Sec. (a) (part).)

Source Law

Art. 3.42A. (a) All benefits payable under any policy, contract, or certificate of . . . insurance . . . [, annuity or pure endowment contract, or group annuity contract] delivered, issued, or used in this state by . . . any . . . insurer shall be payable in currency.

Revised Law

Sec. 1102.003. STATEMENT REGARDING VALUE OF FOREIGN CURRENCY. (a) An insurance policy described by Section 1102.002 providing that benefits are payable in foreign currency must include a conspicuous statement that the value of the currency denominated in the policy can fluctuate as compared to the value of United States currency.

(b) The statement must be:

- (1) included as part of the policy; or
- (2) attached to the insurance policy at the time it is issued. (V.T.I.C. Art. 3.42A, Sec. (c).)

Source Law

(c) Any such policy, contract, or certificate of insurance providing that benefits are payable in foreign currency must conspicuously state that the currency in which the policy is denominated can fluctuate in value as compared to the currency of the United States of America or a statement to such effect shall be attached to any such policy upon issue.

Revised Law

Sec. 1102.004. PREVIOUSLY APPROVED INSURANCE POLICY FORM PAYABLE IN FOREIGN CURRENCY. (a) The commissioner may disapprove or withdraw approval of a previously approved insurance policy form that provides benefits payable in foreign currency if the commissioner determines that the foreign currency has been less stable than United States currency in the previous 20-year period.

(b) This section does not require the resubmission for approval of any previously approved insurance policy form unless:

(1) withdrawal of approval is authorized under this section or Article 3.42; or

(2) after notice and hearing, the commissioner determines that approval was obtained by improper means, including by misrepresentation, fraud, or a misleading statement or document. (V.T.I.C. Art. 3.42A, Sec. (b).)

Source Law

(b) In addition to any other ground authorized by this code for disapproval or withdrawal of a previously approved policy form, the board shall have the authority to disapprove or withdraw approval of any such policy, contract, or certificate of insurance, the benefits of which are payable in foreign currency, if the board determines such foreign currency to have been less stable than the currency of the United States over the preceding 20-year period. This article shall not be construed to require the resubmission for reapproval of any heretofore approved policy, contract, or certificate of insurance form, unless withdrawal of such previous approval is authorized under Article 3.42, this article, or unless it is determined, after notice and hearing, that such approval was obtained by misrepresentation, fraud, misleading statements or documentation, or other improper means.

Revisor's Note

(1) Section (b), V.T.I.C. Article 3.42A, provides that the authority of the board over approval of insurance naming a foreign currency for the payment of benefits is "[i]n addition to any other ground authorized by this code for disapproval or

withdrawal of a previously approved policy form." The revised law omits the quoted language as unnecessary. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision.

(2) Section (b), V.T.I.C. Article 3.42A, refers to "the board," meaning the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the State Board of Insurance have been changed appropriately.

Revised Law

Sec. 1102.005. RULES. The commissioner may adopt reasonable rules to accomplish the purposes of this chapter, including rules requiring:

(1) appropriate reserves for insurance policies subject to this chapter; or

(2) prudent investment of premiums collected from insurance policies subject to this chapter regardless of any other provision of this code related to the investment of money by an insurance company. (V.T.I.C. Art. 3.42A, Sec. (d).)

Source Law

(d) The State Board of Insurance may adopt reasonable rules to carry out the purposes of this article, including but not limited to requiring appropriate reserves for such policies and requiring prudent investment of premiums collected from such insurance without regard to any other provision of this code relating to the investment of funds by insurance companies.

Revisor's Note

Section (d), V.T.I.C. Article 3.42A, provides for the adoption of rules, including "but not limited to" rules regarding certain topics. The revised law omits "but not limited to" as unnecessary because Section 311.005(13), Government Code (Code Construction Act), and Section 312.011(19), Government Code, applicable to the revised law, provide that "includes" and "including" are terms of enlargement and not of limitation and do not create a presumption that components not expressed are excluded.

CHAPTER 1103. LIFE INSURANCE POLICY BENEFICIARIES
SUBCHAPTER A. STATUTORY LIFE INSURANCE BENEFICIARIES;
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[Sections 1103.006-1103.050 reserved for expansion]

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CHAPTER 1103. LIFE INSURANCE POLICY BENEFICIARIES
SUBCHAPTER A. STATUTORY LIFE INSURANCE BENEFICIARIES;
INSURABLE INTEREST

Revised Law

Sec. 1103.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a life insurance policy issued by a legal reserve life insurance company. (V.T.I.C. Art. 3.49 (part).)

Source Law

Art. 3.49. [Any corporation, partnership, joint stock association or any trust estate doing business for profit, may be named beneficiary in any policy of insurance] issued by a legal

reserve life insurance company [on the life of any officer or stockholder of said corporation, joint stock association or trust estate; or any partnership or member thereof may be the beneficiary in any policy of insurance] issued by a legal reserve life insurance company [upon the life of any member of said partnership; or any religious, educational, eleemosynary, charitable or benevolent institution or undertaking may be named beneficiary in any policy of life insurance] issued by any legal reserve life insurance company [upon the life of any individual]. . . .

Revisor's Note

V.T.I.C. Article 3.49 refers to insurance policies issued by a "legal reserve life insurance company." The article subsequently refers to life insurance policies issued by "legal reserve companies." It is clear from the context that the article applies only to life insurance policies issued by legal reserve life insurance companies. The revised law is drafted accordingly.

Revised Law

Sec. 1103.002. INSURABLE INTEREST OF BENEFICIARY. A beneficiary described by this subchapter who is designated in a life insurance policy has an insurable interest for the face amount of the policy and is entitled to collect that amount. (V.T.I.C. Art. 3.49 (part).)

Source Law

Art. 3.49. . . . The beneficiaries aforementioned shall have an insurable interest for the full face of the policy and shall be entitled to collect same. . . .

Revisor's Note

V.T.I.C. Article 3.49 grants an insurable interest to certain classes of beneficiaries designated in life insurance policies, including classes of beneficiaries designated in life insurance policies "heretofore issued." It is clear that the legislature included the provision regarding policies "heretofore issued" to extend the application of the article to beneficiaries of policies issued before the effective date of the article. The provision, having accomplished its purpose on the date the article became effective, is executed law. Therefore, the revised law omits the provision as unnecessary. The omitted law reads:

Art. 3.49. . . . On all policies of life insurance heretofore issued by legal reserve companies in which any of the aforementioned shall have been designated beneficiaries in the policies, said

beneficiaries shall have an insurable interest to the full extent of the face of the policy and be entitled to collect same.

Revised Law

Sec. 1103.003. CORPORATION, JOINT STOCK ASSOCIATION, OR TRUST ESTATE AS BENEFICIARY. A corporation, a joint stock association, or a trust estate that is engaging in business for profit may be designated as a beneficiary in a policy that insures the life of an officer or stockholder of the corporation, joint stock association, or trust estate. (V.T.I.C. Art. 3.49 (part).)

Source Law

Art. 3.49. Any corporation, partnership, joint stock association or any trust estate doing business for profit, may be named beneficiary in any policy of insurance . . . on the life of any officer or stockholder of said corporation, joint stock association or trust estate; or

Revisor's Note

V.T.I.C. Article 3.49 states that a "corporation, partnership, joint stock association or . . . trust estate doing business for profit" may be a beneficiary of a policy insuring the life of an officer or stockholder of "said corporation, joint stock association or trust estate." The revised law omits the reference to a "partnership" because it is clear from the context of Article 3.49 that the substantive provisions of the article that apply to a partnership are contained in the portion of the article revised as Section 1103.004.

Revised Law

Sec. 1103.004. PARTNERSHIP OR PARTNER AS BENEFICIARY. A partnership or a member of a partnership may be designated as a beneficiary in a policy that insures the life of a member of the partnership. (V.T.I.C. Art. 3.49 (part).)

Source Law

Art. 3.49. . . . any partnership or member thereof may be the beneficiary in any policy of insurance . . . upon the life of any member of said partnership; or

Revised Law

Sec. 1103.005. RELIGIOUS, EDUCATIONAL, ELEEMOSYNARY, CHARITABLE, OR BENEVOLENT INSTITUTION OR UNDERTAKING AS BENEFICIARY. A religious, educational, eleemosynary, charitable, or benevolent institution or undertaking may be designated as a beneficiary in a policy that insures the life of an individual. (V.T.I.C. Art. 3.49 (part).)

Source Law

Art. 3.49. . . . any religious, educational, eleemosynary, charitable or benevolent institution or undertaking may be named beneficiary in any policy of life insurance . . . upon the life of any individual. . . .

[Sections 1103.006-1103.050 reserved for expansion]

SUBCHAPTER B. DESIGNATION OF BENEFICIARY OR OWNER OF LIFE
INSURANCE POLICY; INSURABLE INTEREST

Revised Law

Sec. 1103.051. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a life insurance policy issued by:

- (1) a legal reserve life insurance company; or
- (2) a mutual assessment life insurance company.

(V.T.I.C. Art. 3.49-1, Secs. 1 (part), 2 (part), 3 (part).)

Source Law

Sec. 1. [Any person of legal age may apply for insurance on his life] in any legal reserve or mutual assessment life insurance company

Sec. 2. [Any person of legal age whose life is insured under any existing or future policy of insurance] by any legal reserve or mutual assessment life insurance company [may . . . designate in writing as the beneficiary or beneficiaries thereof]

Sec. 3. [Any person of legal age may consent in writing to the purchase of or the application for an individual or group insurance policy or policies] issued by any legal reserve or mutual assessment life insurance company

Revised Law

Sec. 1103.052. LIBERAL CONSTRUCTION. This subchapter shall be liberally construed to implement the purposes of this subchapter. (V.T.I.C. Art. 3.49-1, Sec. 5 (part).)

Source Law

Sec. 5. . . . This Act shall be liberally construed to effectuate its purposes, and

Revisor's Note

(1) Section 5, V.T.I.C. Article 3.49-1, refers to the cumulative effect of that article. An accepted general principle of statutory construction requires a statute to be given cumulative effect with other statutes unless it provides otherwise or unless the statutes are in conflict. The general principle applies to this revision. The omitted law reads:

Sec. 5. The provisions of this Act are cumulative of existing law in Texas, statutory and otherwise, on the question of insurable interest

(2) Section 5, V.T.I.C. Article 3.49-1, provides that the article is "enacted in specific recognition" of certain provisions of V.T.I.C. Article 21.23, revised as Subchapter D. The revised law omits the provision as unnecessary because Subchapter D applies to a life insurance policy governed by this subchapter without a specific reference to Subchapter D in this subchapter. The omitted law reads:

Sec. 5. . . . This Act is enacted in specific recognition of the provisions of Article 21.23 of the Texas Insurance Code, 1951, that the interest of any beneficiary in a life insurance policy is forfeited if the beneficiary is the principal or an accomplice in bringing about the death of the insured. . . .

(3) Section 5, V.T.I.C. Article 3.49-1, states that the provisions of the article may not be "limited or restricted by previous declarations or holdings" of the courts of this state that define the term insurable interest. Under accepted general principles of statutory construction, declarations or holdings of a court that are made before a statute is enacted do not limit or restrict the effect of the statute. Therefore, the revised law omits the provision as unnecessary. The omitted law reads:

Sec. 5. . . . its provisions are not to be limited or restricted by previous declarations or holdings of the Courts of Texas defining the term insurable interest.

Revised Law

Sec. 1103.053. INSURABLE INTEREST OF BENEFICIARY, OWNER, TRANSFEREE, OR ASSIGNEE. (a) Except as provided by Subsection (b), a beneficiary or owner of a life insurance policy who is designated in accordance with this subchapter or an entity to which a life insurance policy or an interest, benefit, right, or title in a life insurance policy is transferred or assigned in accordance with this subchapter has an insurable interest in the life of the individual who is insured under the policy.

(b) An individual, partnership, association, corporation, or other legal entity that is directly or indirectly engaged in the business of burying the dead does not directly or indirectly have an insurable interest in the life of an individual unless the interest is established under other applicable statutory law

or under common law. (V.T.I.C. Art. 3.49-1, Secs. 1 (part), 2 (part), 3 (part), 4.)

Source Law

Sec. 1. . . . with respect to any such policy or policies any such beneficiary or owner so designated shall at all times thereafter have an insurable interest in the life of such person, except as provided in Section 4 of this Act.

Sec. 2. . . . with respect to any such policy any such beneficiary, transferee or assignee shall at all times thereafter have an insurable interest in the life of such person, except as provided in Section 4 of this Act.

Sec. 3. . . . with respect to any such policy or policies any such owner or beneficiary shall at all times thereafter have an insurable interest in the life of such person, except as provided in Section 4 of this Act.

Sec. 4. Notwithstanding the provisions thereof, no person, persons, partnership, association, corporation or other legal entity, or any combination thereof, directly or indirectly engaged in the business of burying the dead shall have or obtain, directly or indirectly, any insurable interest in the life of any person by virtue of Sections 1, 2, or 3 of this Act, or shall have an insurable interest in the life of any person unless such insurable interest be established under and by virtue of other applicable statutory or common law.

Revisor's Note

(1) Section 4, V.T.I.C. Article 3.49-1, restricts the ability of a "person, persons, partnership, association, corporation or other legal entity, or any combination thereof" engaged in a certain business to have an insurable interest in the life of a person. The revised law omits the reference to "any combination thereof" as unnecessary because if a prohibition or power applies to one of the listed entities, it is clear from the context of the article that the prohibition or power continues to apply to that entity even in combination with other entities. Similar changes have been made throughout the subchapter.

(2) Section 4, V.T.I.C. Article 3.49-1, states that certain entities may not "have or obtain" an insurable interest in the life of a person under certain sections of the article. The revised law omits the reference to "obtain" as unnecessary because in the context of Article 3.49-1, the meaning of that term is included within the meaning of "have."

Revised Law

Sec. 1103.054. DESIGNATION OF BENEFICIARY OR OWNER IN POLICY APPLICATION. An individual of legal age may:

(1) apply for a policy insuring the individual's life;

and

(2) designate in writing in the application for the policy any individual, partnership, association, corporation, or other legal entity as:

(A) a beneficiary of the policy;

(B) an absolute or partial owner of the policy;

or

(C) both a beneficiary and an absolute or partial owner of the policy. (V.T.I.C. Art. 3.49-1, Sec. 1 (part).)

Source Law

Art. 3.49-1

Sec. 1. Any person of legal age may apply for insurance on his life . . . and in such application designate in writing any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, as the beneficiary or beneficiaries, or the absolute or partial owner or owners, or both beneficiary and owner, of any policy or policies issued in connection with such application; and

Revised Law

Sec. 1103.055. DESIGNATION OF BENEFICIARY OF POLICY; TRANSFER OR ASSIGNMENT OF POLICY OR INTEREST. An individual of legal age who is insured under a life insurance policy may in writing:

(1) in a manner and to the extent permitted by the policy, designate any individual, partnership, association, corporation, or other legal entity as a beneficiary of the policy; and

(2) in a manner and to the extent not prohibited by the policy, transfer or assign to any entity described by Subdivision (1):

(A) the policy; or

(B) an interest, benefit, right, or title in the policy. (V.T.I.C. Art. 3.49-1, Sec. 2 (part).)

Source Law

Sec. 2. Any person of legal age whose life is insured under any existing or future policy of insurance . . . may, in the manner and to the extent permitted by the policy, designate in writing as the beneficiary or beneficiaries thereof any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, and in addition, in any manner and to any extent not prohibited by the terms of the policy, may transfer or assign in writing any such policy or any interest, benefit, right or title therein to any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, and

Revisor's Note

Section 2, V.T.I.C. Article 3.49-1, grants certain authority to a person of legal age whose life is insured under "any existing or future" insurance policy. It is clear that the legislature included the quoted language to extend the application of the section to a person of legal age whose life is insured under a policy issued before the effective date of the section. The quoted language, having accomplished its purpose on the date the section became effective, is executed law. Therefore, the revised law omits the quoted language as unnecessary.

Revised Law

Sec. 1103.056. PURCHASE OF OR APPLICATION FOR POLICY BY THIRD PARTY. An individual of legal age may in a single written document:

(1) consent to the purchase of or application for an individual or group life insurance policy by a third party; and

(2) designate or consent to the designation of any individual, partnership, association, corporation, or other legal entity as:

(A) a beneficiary of the policy;

(B) an absolute or partial owner of the policy;

or

(C) both a beneficiary and an absolute or partial owner of the policy. (V.T.I.C. Art. 3.49-1, Sec. 3 (part).)

Source Law

Sec. 3. Any person of legal age may consent in writing to the purchase of or the application for an individual or group insurance policy or policies . . . by a third party or parties and in such written document consent to or designate any person, persons, partnership, association, corporation or other legal entity, or any combination thereof, as the absolute or partial owner or owners or beneficiary, or any combination thereof, of any policy or policies issued in connection with such consent or designation; and

[Sections 1103.057-1103.100 reserved for expansion]

SUBCHAPTER C. PAYMENT OF PROCEEDS

Revised Law

Sec. 1103.101. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a life insurance policy issued by a legal reserve life insurance company. (V.T.I.C. Art. 3.48 (part).)

Source Law

Art. 3.48. [Whenever any person shall procure the issuance of a policy of insurance on his or her life] in any legal reserve

life insurance company

Revisor's Note

V.T.I.C. Article 3.48 provides that the article applies to "policies now in existence [and] . . . policies hereafter written." It is clear that the legislature included the application provision to extend the application of the article to policies issued before the effective date of the article. The provision, having accomplished its purpose on the date the article became effective, is executed law. Therefore, the revised law omits the provision as unnecessary. The omitted law reads:

Art. 3.48. . . . The provisions of this article shall apply to all policies now in existence as well as to all policies hereafter written.

Revised Law

Sec. 1103.102. PAYMENT TO DESIGNATED BENEFICIARY. (a) Except as provided by Subsection (b), if an individual obtains a policy insuring the individual's life, designates in writing a beneficiary to receive the proceeds of the policy, and files the written designation with the company, the company shall pay the proceeds that become due on the death of the insured to the designated beneficiary.

(b) A company that issues a life insurance policy is not required to pay the proceeds of the policy to a designated beneficiary under Subsection (a) if the company receives notice of an adverse claim to the proceeds from a person who has a bona fide legal claim to all or part of the proceeds. (V.T.I.C. Art. 3.48 (part).)

Source Law

Art. 3.48. Whenever any person shall procure the issuance of a policy of insurance on his or her life . . . and designate in writing filed with the company the beneficiary to receive the proceeds thereof, the company issuing such policy shall, in the absence of the receipt by it of notice of an adverse claim to the proceeds of the policy from one having a bona fide legal claim to such proceeds or a part thereof, pay such proceeds becoming due on the death of the insured to the person so designated as beneficiary, and

Revised Law

Sec. 1103.103. DISCHARGE OF LIABILITY. In the absence of notice under Section 1103.102(b) received by the company before the date of payment, a company that issues a life insurance policy is discharged from all liability under the policy if the

company pays the proceeds of the policy to a designated beneficiary under Section 1103.102(a). (V.T.I.C. Art. 3.48 (part).)

Source Law

Art. 3.48. . . . [the company issuing such policy shall, in the absence of the receipt by it of notice of an adverse claim to the proceeds of the policy . . . pay such proceeds becoming due on the death of the insured . . . and] such payment so made, in the absence of such notice received by the insurance company prior to the date of the payment of the proceeds, shall discharge the company from all liability under the policy. . . .

Revised Law

Sec. 1103.104. INTEREST ON PROCEEDS. (a) Interest on the proceeds of a life insurance policy accrues from the date the company that issues the policy receives due proof of loss until the date the company accepts the claim and offers to pay.

(b) Interest that accrues under this section shall be paid at the same time that the proceeds of the policy are paid under this subchapter.

(c) The interest rate under this section is the rate provided in the policy or, if a rate is not provided in the policy, the rate at which interest accrues on proceeds that are left on deposit with the company that issues the policy.

(V.T.I.C. Art. 3.48 (part).)

Source Law

Art. 3.48. . . . Interest shall accrue from the date due proof of loss is received by the insurance company to the date the insurer accepts the claim and offers to pay. Interest shall be paid at the same time that proceeds from the policy are paid under this article. The rate of interest shall be either the rate so provided in the policy or, if there is no such provision in the policy, the rate of interest on proceeds left on deposit with the insurer. . . .

[Sections 1103.105-1103.150 reserved for expansion]

SUBCHAPTER D. FORFEITURE OF BENEFICIARY'S RIGHTS

Revised Law

Sec. 1103.151. FORFEITURE. A beneficiary of a life insurance policy or contract forfeits the beneficiary's interest in the policy or contract if the beneficiary is a principal or an accomplice in wilfully bringing about the death of the insured.

(V.T.I.C. Art. 21.23 (part).)

Source Law

Art. 21.23. The interest of a beneficiary in a life insurance policy or contract heretofore or hereafter issued shall be forfeited when the beneficiary is the principal or an accomplice in willfully bringing about the death of the insured. . . .

Revisor's Note

(1) V.T.I.C. Article 21.23 refers to an insurance "policy or contract." The article subsequently refers to an insurance "policy." For consistency, the revised law refers to an insurance "policy or contract" throughout Subchapter D.

(2) V.T.I.C. Article 21.23 refers to the beneficiary of a life insurance policy or contract "heretofore or hereafter issued." It is clear that the legislature included the quoted language to extend the application of the article to the beneficiary of a policy or contract issued before the effective date of the article. The quoted language, having accomplished its purpose on the date the article became effective, is executed law. Therefore, the revised law omits the quoted language as unnecessary.

Revised Law

Sec. 1103.152. PAYMENT OF PROCEEDS TO CONTINGENT BENEFICIARY OR TO RELATIVE. (a) Except as provided by Subsection (b), if a beneficiary of a life insurance policy or contract forfeits an interest in the policy or contract under Section 1103.151, a contingent beneficiary named by the insured in the policy or contract is entitled to receive the proceeds of the policy or contract.

(b) A contingent beneficiary is not entitled to receive the proceeds of a life insurance policy or contract if the contingent beneficiary forfeits an interest in the policy or contract under Section 1103.151.

(c) If there is not a contingent beneficiary entitled to receive the proceeds of a life insurance policy or contract under Subsection (a), the nearest relative of the insured is entitled to receive those proceeds. (V.T.I.C. Art. 21.23 (part).)

Source Law

Art. 21.23. . . . When such is the case, a contingent beneficiary named by the insured in the policy shall receive the insurance unless that contingent beneficiary was also a principal or an accomplice in willfully bringing about the death of the insured. If no contingent beneficiary is named by the insured in the policy or if all contingent beneficiaries named by the insured in the policy were principals or accomplices in willfully bringing about the death of the insured, the nearest relative of

the insured shall receive said insurance.

CHAPTER 1104. LIFE INSURANCE AND ANNUITY CONTRACTS ISSUED
TO CERTAIN PERSONS

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CHAPTER 1104. LIFE INSURANCE AND ANNUITY CONTRACTS ISSUED
TO CERTAIN PERSONS

SUBCHAPTER A. LIFE INSURANCE AND ANNUITY CONTRACTS WITH
CERTAIN MINORS

Revised Law

Sec. 1104.001. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a policy or contract issued by a stock or mutual legal reserve life insurance company that:

- (1) is licensed by the department to transact the business of life insurance in this state; and
(2) maintains the legal reserve required by state law.
(V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. . . .

(a) This Act applies only to policies and contracts issued by a stock or mutual legal reserve life insurance company that maintains the full legal reserve required under the laws of this State, and that is licensed by the State Board of Insurance to transact the business of life insurance in this State.

. . .

Revisor's Note

V.T.I.C. Article 3.49-2 refers to a company that is licensed by the "State Board of Insurance." Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of

Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. The reference to the State Board of Insurance has been changed appropriately.

Revised Law

Sec. 1104.002. CERTAIN TRANSACTIONS EXEMPT. This subchapter does not apply to a transaction between an insurance company and a minor described by Section 1104.003(a) that occurs after the date the company receives at its home office or its principal office in this state written notice from a parent of the minor stating that a parent or the parents of the minor elect that this subchapter not apply to the minor specifically named in the notice. (V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. . . .

(g) If notice in writing be furnished by the father or mother of any such minor to the insurance company at its home office or its principal office in this State that they or either of them elect that this Act shall not apply to their specified minor child, then the provisions of this Act shall not apply to any transaction by or with any such specified minor child occurring subsequent to the receipt of such notice.

Revised Law

Sec. 1104.003. AUTHORITY TO CONTRACT. (a) Subject to this subchapter, a minor 14 years of age or older who is without a guardian of the estate of the minor may:

(1) contract for or otherwise acquire a life, term, or endowment insurance policy or an annuity contract, including:

(A) applying for the policy or contract; and

(B) making agreements with respect to the policy or contract or a right, privilege, or benefit under the policy or contract;

(2) exercise all rights and powers in regard to the policy or contract in the same manner as an adult; and

(3) surrender an interest in the policy or contract and give a discharge for a benefit paid under the policy or contract.

(b) An insurance policy acquired by a minor under this subchapter must:

(1) be owned by the minor; and

(2) insure the life of:

(A) the minor;

(B) a spouse, child, parent, grandparent, or

sibling of the minor; or

(C) another in whose life the minor has an insurable interest.

(c) A minor who acquires an annuity contract under this subchapter is the annuitant of the contract during the minor's life.

(d) A minor who acquires an insurance policy or an annuity contract under this subchapter, the estate of the minor, or a spouse, child, parent, grandparent, or sibling of the minor must be the beneficiary of the policy or, in the case of an annuity contract, of the death benefit of the contract. (V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. A minor not less than fourteen (14) years of age and without a guardian of his estate may, notwithstanding such minority, contract for or otherwise acquire policies of life, term or endowment insurance, or annuity contracts, or both, and may exercise all rights and powers with respect to or under such policies or contracts heretofore or hereafter issued as though of full legal age, and may surrender his interests therein and give a valid discharge for any benefit or money payable thereunder, and . . . subject, however, to the following conditions and limitations:

. . .

(b) The policies of insurance subject to this Act shall be only those policies owned by the minor and insuring the life of the minor, his father, mother, spouse, child, brother, sister, grandfather, grandmother or a person in whose life the minor may have an insurable interest.

(c) The minor shall be the annuitant of any such annuity contract during his life.

(d) The minor, his estate, father, mother, spouse, child, brother, sister, grandfather, or grandmother shall be the beneficiary or beneficiaries of any such policies and of the death benefit of any such annuity contracts.

. . .

(f) During the time in which any such minor is not less than fourteen (14) years of age his applications for such policies and contracts and all agreements with respect to same, or the rights, privileges, and benefits thereunder, may be made by the minor and

Revisor's Note

V.T.I.C. Article 3.49-2 authorizes a minor to "give a valid discharge for any benefit or money payable" under an insurance policy or annuity contract. The revised law omits "valid" as unnecessary because the word does not add to the clear meaning of

the law. A statute would not authorize the giving of an invalid or improper discharge. The revised law omits the reference to "money" because it is included in the meaning of "benefit."

Revised Law

Sec. 1104.004. WRITTEN APPROVAL BY ADULT REQUIRED. An application or agreement made by a minor under this subchapter must be signed or approved in writing by:

- (1) a parent, grandparent, or adult sibling of the minor; or
- (2) if the minor does not have a parent, grandparent, or adult sibling, an adult eligible under the Texas Probate Code to be appointed guardian of the estate of the minor. (V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. . . .

(f) . . . shall also be signed or approved in writing by either his father, mother, grandfather, grandmother or adult brother or sister, or if there be none of the foregoing, then by an adult person eligible under the Texas Probate Code to be appointed guardian of the estate of such minor.

. . .

Revised Law

Sec. 1104.005. RESCISSION BECAUSE OF MINORITY PROHIBITED. A minor who acquires a policy or contract under this subchapter may not by reason of minority rescind, avoid, or repudiate:

- (1) the policy or contract; or
- (2) the exercise of a right or privilege, or the receipt of any benefit, under the policy or contract. (V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. . . . such minor shall not, by reason of his minority, be entitled to rescind, avoid or repudiate the contract, or the exercise of any right or privilege or the receipt of any benefit or payment thereunder

Revised Law

Sec. 1104.006. EFFECT ON POLICY OR CONTRACT. This subchapter does not modify any provision in a policy or contract. (V.T.I.C. Art. 3.49-2 (part).)

Source Law

Art. 3.49-2. . . .

(e) Nothing contained in this Act shall be deemed to alter, amend or modify any provision of any policy or contract.

. . .

Revisor's Note

V.T.I.C. Article 3.49-2 provides that the article does not "alter, amend or modify" a policy or contract. The references to "alter" and "amend" are omitted from the revised law because those terms are included in the meaning of "modify."

[Sections 1104.007-1104.020 reserved for expansion]

SUBCHAPTER B. TRUSTEE NAMED AS BENEFICIARY OF
LIFE INSURANCE POLICY

Revised Law

Sec. 1104.021. TRUSTEE NAMED AS BENEFICIARY IN POLICY. (a) An individual may make a trust agreement providing that the proceeds of a life insurance policy insuring the individual be made payable to a trustee named as beneficiary in the policy. The validity of a trust agreement or declaration of trust that designates a beneficiary of a life insurance policy is not affected by whether any corpus of the trust exists in addition to the right of the trustee to receive insurance proceeds.

(b) Life insurance policy proceeds described by Subsection (a) shall be paid to the trustee. The trustee shall hold and dispose of the proceeds as provided by the trust agreement. (V.T.I.C. Art. 3.49-3, Sec. 1, as added Acts 60th Leg., R.S., Ch. 701.)

Source Law

Art. 3.49-3.

Sec. 1. Life insurance may be made payable to a trustee to be named as beneficiary in the policy and the proceeds of such insurance shall be paid to such trustee and be held and disposed of by the trustee as provided in a trust agreement made by the insured during his lifetime. It shall not be necessary to the validity of any such trust agreement or declaration of trust that it have a trust corpus other than the right of the trustee to receive such insurance proceeds as beneficiary.

Revised Law

Sec. 1104.022. TRUSTEE NAMED AS BENEFICIARY IN WILL. (a) A life insurance policy may provide that the beneficiary of the policy be a trustee designated by will in accordance with the policy provisions and the requirements of the insurance company.

(b) Except as provided by Subsection (c), on probate of a will described by Subsection (a), the life insurance policy proceeds shall be paid to the trustee. The trustee shall hold and dispose of the proceeds as provided under the terms of the will as the will existed on the date of the testator's death and in the same manner as other testamentary trusts are administered.

(c) Except as otherwise provided by agreement with the insurance company during the life of the insured, the insurance company shall pay the life insurance policy proceeds to the

executors, administrators, or assigns of the insured if, during the 18-month period beginning on the first day after the date of the insured's death:

(1) a qualified trustee does not make to the insurance company a claim to the proceeds; or

(2) the insurance company is provided satisfactory evidence showing that there is or will be no trustee to receive the proceeds. (V.T.I.C. Art. 3.49-3, Sec. 2, as added Acts 60th Leg., R.S., Ch. 701.)

Source Law

Sec. 2. A policy of life insurance may designate as beneficiary a trustee or trustees named by will, if the designation is made in accordance with the provisions of the policy and the requirements of the insurance company. Upon probate of the will the proceeds of such insurance shall be payable to the trustee or trustees to be held and disposed of under the terms of the will as they exist as of the date of the death of the testator and in the same manner as other testamentary trusts are administered; but if no qualified trustee makes claim to the proceeds from the insurance company within eighteen months after the death of the insured, or if satisfactory evidence is furnished to the insurance company within such eighteen month period showing that there is or will be no trustee to receive the proceeds, payment shall be made by the insurance company to the executors, administrators or assigns of the insured, unless otherwise provided by agreement with the insurance company during the lifetime of the insured.

Revised Law

Sec. 1104.023. DEBTS; INHERITANCE TAX. Life insurance policy proceeds received by a trustee under this subchapter are not subject to debts of the insured or to inheritance tax to any greater extent than if the proceeds were payable to a beneficiary other than the executor or administrator of the insured's estate. (V.T.I.C. Art. 3.49-3, Sec. 3, as added Acts 60th Leg., R.S., Ch. 701.)

Source Law

Sec. 3. The proceeds of the insurance as received by the trustee or trustees shall not be subject to debts of the insured nor to inheritance tax to any greater extent than if such proceeds were payable to beneficiaries other than the executor or administrator of the estate of the insured.

Revised Law

Sec. 1104.024. COMMINGLING. Life insurance policy proceeds received by a trustee under this subchapter may be commingled

with any other assets properly coming into the trust. (V.T.I.C. Art. 3.49-3, Sec. 4, as added Acts 60th Leg., R.S., Ch. 701.)

Source Law

Sec. 4. Such insurance proceeds so held in trust may be commingled with any other assets which may properly come into such trust.

Revised Law

Sec. 1104.025. CERTAIN PRIOR BENEFICIARY DESIGNATIONS NOT AFFECTED. This subchapter does not affect the validity of a life insurance policy beneficiary designation made before July 1, 1967, that names as beneficiary a trustee of a trust established by will. (V.T.I.C. Art. 3.49-3, Sec. 5, as added Acts 60th Leg., R.S., Ch. 701.)

Source Law

Sec. 5. Nothing in this Act shall affect the validity of any life insurance policy beneficiary designation heretofore made naming trustees of trusts established by will.

Revisor's Note

Section 5, V.T.I.C. Article 3.49-3, as added by Chapter 701, Acts of the 60th Legislature, Regular Session, 1967, refers to a designation "heretofore made." The effective date of that act, which added Article 3.49-3 to the Insurance Code, was July 1, 1967, and the revised law is drafted accordingly.

CHAPTER 1105. STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE

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CHAPTER 1105. STANDARD NONFORFEITURE LAW FOR
LIFE INSURANCE

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1105.001. SHORT TITLE. This chapter may be cited as
the Standard Nonforfeiture Law for Life Insurance. (V.T.I.C.
Art. 3.44a, Sec. 1.)

Source Law

Art. 3.44a

Sec. 1. This Article shall be known as the Standard
Non-forfeiture Law for Life Insurance.

Revised Law

Sec. 1105.002. APPLICABILITY OF CHAPTER. (a) This chapter
applies to a policy issued by a company on or after January 1,
1974.

(b) This chapter also applies to a policy issued by a
company after a date specified in a written notice:

(1) that was filed by the company with the State Board
of Insurance after August 23, 1963, but before January 1, 1974;
and

(2) under which the company filing the notice elected
to comply before January 1, 1974, with the law codified by this
chapter. (V.T.I.C. Art. 3.44a, Sec. 13.)

Source Law

Sec. 13. After the effective date of this Article, any
company may file with the State Board of Insurance a written
notice of its election to comply with the provisions of this
Article after a specified date before January 1, 1974. After the
filing of such notice, then upon such specified date (which shall
be the operative date for such company), this Article shall
become operative with respect to the policies thereafter issued
by such company. If a company makes no such election, the
operative date of this Article for such company shall be January
1, 1974.

Revisor's Note

Section 13, V.T.I.C. Article 3.44a, refers to "the effective date of this Article." The revised law substitutes August 23, 1963, the effective date of Article 3.44a, for the quoted language.

Revised Law

Sec. 1105.003. EXEMPTIONS. (a) This chapter does not apply to:

- (1) reinsurance;
- (2) group insurance;
- (3) pure endowment;
- (4) an annuity or reversionary annuity contract;
- (5) a term policy of uniform amount that:
 - (A) does not provide guaranteed nonforfeiture or endowment benefits or renewal of the policy;
 - (B) has a term of 20 years or less that expires before the insured reaches 71 years of age; and
 - (C) has uniform premiums that are payable during the entire term of the policy;
- (6) a term policy of decreasing amount:
 - (A) that does not provide guaranteed nonforfeiture or endowment benefits; and
 - (B) on which each adjusted premium, computed as specified by Subchapter B or D, is less than the adjusted premium computed in that manner for a term policy of uniform amount, or a renewal of a term policy of uniform amount, that:
 - (i) does not provide guaranteed nonforfeiture or endowment benefits;
 - (ii) is issued at the same age and for the same initial amount of insurance;
 - (iii) has a term of 20 years or less and expires before the insured reaches 71 years of age; and
 - (iv) has uniform premiums that are payable during the entire term of the policy;
- (7) a policy:
 - (A) that does not provide guaranteed nonforfeiture or endowment benefits; and
 - (B) for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, computed as specified by Section 1105.007, 1105.008, 1105.009, Subchapter B, or Subchapter D, exceeds 2-1/2 percent of the amount of insurance at the beginning of the same policy year;
- (8) a policy delivered outside this state through an agent or other representative of the company that issued the policy; or
- (9) a policy that:
 - (A) does not provide for cash values or

nonforfeiture values; and

(B) meets the requirements of Section 884.403(b).

(b) For purposes of determining the applicability of this chapter, the age at expiry of a joint term life insurance policy is the age at expiry of the oldest insured life on that date.

(V.T.I.C. Art. 3.44a, Sec. 12.)

Source Law

Sec. 12. This Article shall not apply to any of the following:

- (a) reinsurance,
- (b) group insurance,
- (c) pure endowment,
- (d) annuity or reversionary annuity contract,
- (e) term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy,
- (f) term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in Sections 5, 6, 7, and 8, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of twenty years or less expiring before age seventy-one, for which uniform premiums are payable during the entire term of the policy,
- (g) policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in Sections 3, 4, 5, 6, 7, and 8 exceeds two and one-half per cent (2 1/2%) of the amount of insurance at the beginning of the same policy year,
- (h) policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy, nor to any
- (i) policy issued not providing for cash values or nonforfeiture values meeting the requirements of Subsection (b), Section 1, Article 22.23A, Insurance Code.

For purposes of determining the applicability of this Article, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

Revised Law

Sec. 1105.004. REQUIRED NONFORFEITURE PROVISIONS. (a) A

life insurance policy delivered or issued for delivery in this state must contain in substance the provisions prescribed by Subsections (b), (c), and (d) or corresponding provisions that:

- (1) in the opinion of the department, are at least as favorable to the defaulting or surrendering policyholder; and
- (2) essentially comply with Section 1105.012.

(b) A life insurance policy must provide that if there is a default in the payment of a premium the company, on proper request not later than the 60th day after the due date of the premium that is in default, will grant a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of that due date, in the amount specified by this chapter. A company may substitute for the paid-up nonforfeiture benefit required by this subsection an actuarially equivalent alternative paid-up nonforfeiture benefit that provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits. To elect an alternative paid-up nonforfeiture benefit under this subsection, the person entitled to make the election must submit a proper request not later than the 60th day after the due date of the premium that is in default.

(c) A life insurance policy must:

(1) provide that on surrender of the policy not later than the 60th day after the due date of a premium payment that is in default the company will pay, in lieu of a paid-up nonforfeiture benefit, a cash surrender value in the amount specified by this chapter if the premiums have been paid for at least:

(A) three full years for a policy of ordinary insurance; or

(B) five full years for a policy of industrial insurance;

(2) provide that a specified paid-up nonforfeiture benefit is effective as specified by the policy unless the person entitled to make the election elects another available option not later than the 60th day after the due date of a premium payment that is in default; and

(3) provide that on surrender of the policy not later than the 30th day after any policy anniversary the company will pay a cash surrender value in the amount specified by this chapter if:

(A) the policy has become paid up by completion of all premium payments; or

(B) the policy is continued under a paid-up nonforfeiture benefit that became effective on or after:

(i) the third policy anniversary for a policy of ordinary insurance; or

(ii) the fifth policy anniversary for a

policy of industrial insurance.

(d) A life insurance policy must contain:

(1) subject to Subsection (e), a statement of:

(A) the mortality table, interest rate, and method used to compute the cash surrender values and the paid-up nonforfeiture benefits available under the policy, if the policy:

(i) causes, on a basis guaranteed by the policy, unscheduled changes in benefits or premiums; or

(ii) provides an option for changes in benefits or premiums other than a change to a new policy; or

(B) the mortality table and interest rate used to compute the cash surrender values and the paid-up nonforfeiture benefits available under the policy, with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary during the first 20 policy years or the term of the policy, whichever is shorter, if the policy is a policy other than one described by Paragraph (A)(i) or (ii);

(2) a statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by the insurance laws of this state;

(3) an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy and, if a detailed statement of the method used to compute the values and benefits shown in the policy is not stated in the policy, a statement that the method of computation has been filed with the department; and

(4) a statement of the method to be used to compute the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary after the last anniversary for which those values and benefits are consecutively shown in the policy.

(e) The values and benefits described by Subsection (d)(1)(B) must be computed on the assumption that:

(1) there are no dividends or paid-up additions credited to the policy; and

(2) there is no indebtedness to the company on the policy.

(f) A provision prescribed by Subsection (b), (c), or (d) or a portion of a provision that does not apply because of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(g) A company shall reserve the right to defer payment of any cash surrender value for a period of six months after demand for payment of the cash surrender value and surrender of the

policy. (V.T.I.C. Art. 3.44a, Sec. 2.)

Source Law

Sec. 2. In the case of policies issued on and after the operative date of this Article (as defined in Section 13), no policy of life insurance, except as stated in Section 12, shall be delivered or issued for delivery in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the State Board of Insurance are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements hereinafter specified, and are essentially in compliance with Section 11 of this law:

(1) That, in the event of default in any premium payment, the company will grant, upon proper request not later than sixty (60) days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such amount as may be hereinafter specified. In lieu of such stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) That, upon surrender of the policy within sixty (60) days after the due date of any premium payment in default after premiums have been paid for at least three (3) full years in the case of ordinary insurance or five (5) full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(3) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty (60) days after the due date of the premium in default.

(4) That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within thirty (30) days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(5) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or

premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. In the case of all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty (20) policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the State in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

The company shall reserve the right to defer the payment of any cash surrender value for a period of six (6) months after demand therefor with surrender of the policy.

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.44a, provides that certain provisions must be included in insurance policies issued "on and after the operative date of this Article (as defined in Section 13)." Section 13 is revised as Section 1105.002, which omits the reference to "the operative date" of the law and substitutes a clear statement of the law's applicability to certain life insurance policies. Accordingly, the revised law

omits the quoted language as unnecessary.

(2) Section 2, V.T.I.C. Article 3.44a, refers to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the board and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the State of Board of Insurance have been changed appropriately.

(3) Section 2(6), V.T.I.C. Article 3.44a, requires a life insurance policy to state that "the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered." The revised law substitutes "this state" for "the state in which the policy is delivered" because Section 2, V.T.I.C. Article 3.44a, applies only to a life insurance policy "delivered or issued for delivery in this state."

(4) Section 2(6), V.T.I.C. Article 3.44a, requires certain life insurance policies to include a statement that the method of computing values and benefits shown in the policy has been filed with "the insurance supervisory official of the State in which the policy is delivered." The revised law substitutes "department," meaning the department of insurance, for the quoted language because Section 2, V.T.I.C. Article 3.44a, applies only to a life insurance policy "delivered or issued for delivery in this state."

Revised Law

Sec. 1105.005. COMPUTATION OF ADJUSTED PREMIUMS AND PRESENT VALUES; MORTALITY TABLES AND INTEREST RATES. (a) Except as provided by Subsection (b) or (e) or Section 1105.055, 1105.152, or 1105.153, an adjusted premium or present value determined under this chapter must be computed on the basis of:

(1) the Commissioners 1941 Standard Ordinary Mortality Table for a policy of ordinary insurance; and

(2) the Commissioners 1941 Standard Industrial Mortality Table for a policy of industrial insurance.

(b) For a category of ordinary insurance issued to insure a female risk, an adjusted premium or present value may be computed according to an age not more than three years younger than the actual age of the insured.

(c) All computations must be made using the rate of interest, not to exceed 3-1/2 percent a year, specified by the policy for computing cash surrender values and paid-up nonforfeiture benefits.

(d) In the computation of the present value of any paid-up

term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 percent of the rates shown in the applicable mortality table.

(e) Subject to approval by the department, a company may specify a mortality table other than the applicable table required by this section for use in computing an adjusted premium or present value for insurance issued on a substandard basis. (V.T.I.C. Art. 3.44a, Sec. 5(d).)

Source Law

(d) Except as otherwise provided in Sections 6 and 7, all adjusted premiums and present values referred to in this Article shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured and such calculations for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half per cent (3 1/2%) per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent (130%) of the rates of mortality according to such applicable table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the State Board of Insurance.

Revisor's Note

Section 5(d), V.T.I.C. Article 3.44a, states that all adjusted premiums and present values under Article 3.44a must be computed using the mortality tables specified in Section 5(d) "[e]xcept as otherwise provided in Sections 6 and 7." Sections 6 and 7 are revised as Sections 1105.152 and 1105.153, respectively. However, for certain policies, Section 8(e), V.T.I.C. Article 3.44a, revised as Section 1105.055, prescribes a mortality table different than the ones specified in Section 5(d). Accordingly, the revised law includes a reference to Section 1105.055.

Revised Law

Sec. 1105.006. DETERMINATION OF RATED AGE. For purposes of

this chapter, the date a policy is issued is the date as of which the rated age of the insured is determined. (V.T.I.C. Art. 3.44a, Secs. 5(a) (part), 8(a) (part).)

Source Law

Sec. 5. (a) . . . The date of issue of a policy for the purpose of this Section shall be the date as of which the rated age of the insured is determined.

Sec. 8. (a) . . . The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

Revised Law

Sec. 1105.007. COMPUTATION OF CASH SURRENDER VALUE FOLLOWING DEFAULT. (a) Any cash surrender value available under a policy on a default in payment of a premium due on a policy anniversary, regardless of whether required by Section 1105.004, must be an amount not less than the amount, if any, by which the present value, on the policy anniversary, of the future guaranteed benefits that would have been available under the policy, including any existing paid-up additions, had there not been a default exceeds the sum of:

(1) the then present value of the adjusted premiums as determined under Subchapter B or D that correspond to premiums that would have become due on and after the policy anniversary; and

(2) the amount of any indebtedness to the company on the policy.

(b) Subsection (a) does not require a cash surrender value greater than the reserve for the policy computed as provided by Article 3.28.

(c) For a policy to which Subchapter B applies and that by rider or supplemental policy provision provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium, the cash surrender value computed under Subsection (a) must be an amount not less than the sum of:

(1) the cash surrender value as computed under Subsection (a) for an otherwise similar policy issued at the same age without the rider or supplemental policy provision; and

(2) the cash surrender value as computed under Subsection (a) for a policy that provides only the benefits provided by the rider or supplemental policy provision.

(d) For a family policy to which Subchapter B applies and that defines a primary insured and provides term insurance on the life of the spouse of the primary insured that expires before the spouse reaches 71 years of age, the cash surrender value as

computed under Subsection (a) must be an amount not less than the sum of:

(1) the cash surrender value as computed under Subsection (a) for an otherwise similar policy issued at the same age that does not provide the term insurance on the life of the spouse; and

(2) the cash surrender value as computed under Subsection (a) for a policy that provides only the benefits provided by the term insurance on the life of the spouse.

(V.T.I.C. Art. 3.44a, Sec. 3 (part).)

Source Law

Sec. 3. Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by Section 2, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in Sections 5, 6, 7, and 8, corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. The preceding sentence shall not require any cash surrender value greater than the reserve for the policy calculated as provided by Article 3.28.

Provided, however, that for any policy issued on or after the operative date of Section 8 as defined therein, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in the first paragraph of this Section shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such rider or supplemental policy provision and the cash surrender value as defined in such paragraph for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

Provided, further, that for any family policy issued on or after the operative date of Section 8 as defined therein, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age seventy-one (71), the cash surrender value referred to in the first paragraph of this Section shall be an amount not less than the sum of the cash surrender value as defined in such paragraph for an otherwise similar policy issued at the same age without such term insurance on the life of the spouse and the cash surrender value as defined in such paragraph for a policy which

provides only the benefits otherwise provided by such term insurance on the life of the spouse.

. . .

Revisor's Note

Section 3, V.T.I.C. Article 3.44a, refers to insurance policies "issued on or after the operative date of Section 8 as defined therein." Section 8 is revised as Subchapter B, which omits the reference to "the operative date" of the law and substitutes a clear statement of the law's applicability to certain life insurance policies. Accordingly, the revised law substitutes a reference to "a policy to which Subchapter B applies" for "a policy issued on or after the operative date of Section 8."

Revised Law

Sec. 1105.008. COMPUTATION OF CASH SURRENDER VALUE ON SURRENDER FOLLOWING POLICY ANNIVERSARY. Any cash surrender value available not later than the 30th day after the date of a policy anniversary under a policy paid up by completion of all premium payments or a policy continued under any paid-up nonforfeiture benefit, regardless of whether required by Section 1105.004, must be an amount not less than the present value, on the policy anniversary, of the future guaranteed benefits available under the policy, including any existing paid-up additions, less any indebtedness to the company on the policy. (V.T.I.C. Art. 3.44a, Sec. 3 (part).)

Source Law

Sec. 3. . . .

Any cash surrender value available within thirty (30) days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by Section 2, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

Revised Law

Sec. 1105.009. COMPUTATION OF PAID-UP NONFORFEITURE BENEFITS. Any paid-up nonforfeiture benefit available under the policy on default in the payment of a premium due on a policy anniversary must be such that its present value as of the policy anniversary is at least equal to:

(1) the cash surrender value then available under the policy; or

(2) if a cash surrender value is not available under the policy, the cash surrender value that would have been

required by this chapter in the absence of the condition that premiums must have been paid for at least a specified period. (V.T.I.C. Art. 3.44a, Sec. 4.)

Source Law

Sec. 4. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this Article in the absence of the condition that premiums shall have been paid for at least a specified period.

Revised Law

Sec. 1105.010. PRORATION OF VALUES; NET VALUE OF PAID-UP ADDITIONS. (a) Any cash surrender value and any paid-up nonforfeiture benefit available under a policy on default in the payment of a premium due at any time other than on the policy anniversary must be computed with allowance for the lapse of time and the payment of fractional premiums after the preceding policy anniversary, except that a cash surrender value or nonforfeiture benefit is not required unless the cash surrender value or nonforfeiture benefit was required on the preceding policy anniversary.

(b) A value determined under Sections 1105.005-1105.009, Subchapter B, or Subchapter D may be computed on the assumption that any death benefit is payable at the end of the policy year of death.

(c) The net value of any paid-up additions, other than paid-up term additions, may not be less than the amounts used to provide those additions. (V.T.I.C. Art. 3.44a, Sec. 10 (part).)

Source Law

Sec. 10. Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary; provided, however, such cash surrender value or nonforfeiture benefit shall not be required unless such cash surrender value or nonforfeiture benefit was required on the preceding policy anniversary. All values referred to in Sections 3, 4, 5, 6, 7, and 8 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall not be less than the amounts used to provide such additions. . . .

Revisor's Note

Section 10, V.T.I.C. Article 3.44a, refers to "the last preceding policy anniversary." The revised law omits "last" as unnecessary. "The preceding" means "the last preceding."

Revised Law

Sec. 1105.011. INCLUSION OF CERTAIN ADDITIONAL BENEFITS IN COMPUTING NONFORFEITURE BENEFITS NOT REQUIRED. (a) Notwithstanding Section 1105.007 or 1105.008, additional benefits described by Subsection (b), and premiums for those benefits, may not be included in computing a cash surrender value or nonforfeiture benefits required by this chapter. Additional benefits described by Subsection (b) are not required to be included in any paid-up nonforfeiture benefits.

(b) This section applies to additional benefits payable:

- (1) in the event of death or dismemberment by accident;
- (2) in the event of total and permanent disability;
- (3) as reversionary annuity or deferred reversionary annuity benefits;
- (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this chapter would not apply;
- (5) as term insurance on the life of a child that:
 - (A) is provided in a policy on the life of a parent of the child;
 - (B) expires before the child reaches 26 years of age;
 - (C) is uniform in amount after the child reaches one year of age; and
 - (D) has not become paid up by reason of the death of a parent of the child; or
- (6) as other policy benefits additional to life insurance and endowment benefits. (V.T.I.C. Art. 3.44a, Sec. 10 (part).)

Source Law

Sec. 10. . . . Notwithstanding the provisions of Section 3, additional benefits payable

- (a) in the event of death or dismemberment by accident or accidental means,
- (b) in the event of total and permanent disability,
- (c) as reversionary annuity or deferred reversionary annuity benefits,
- (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this Article would not apply,
- (e) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of

the child if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and

(f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this Article, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

Revisor's Note

Section 10(a), V.T.I.C. Article 3.44a, refers to death or dismemberment "by accident or accidental means." The reference to "accidental means" is omitted from the revised law because "accidental means" is included within the meaning of "accident."

Revised Law

Sec. 1105.012. PROGRESSION OF CASH SURRENDER VALUES. (a) This section applies only to a policy issued on or after January 1, 1985.

(b) Any cash surrender value available under a policy to which this section applies on default in the payment of a premium due on any policy anniversary must be in an amount that does not differ by more than two-tenths of one percent of the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(1) the greater of:

(A) zero; or

(B) the basic cash value as determined under Subsection (c); and

(2) the present value of any existing paid-up additions minus the amount of any indebtedness to the company under the policy.

(c) The basic cash value must be equal to the present value, on the applicable policy anniversary, of the future guaranteed benefits that would have been available under the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, had there not been a default, less the then present value of the nonforfeiture factors specified by Subsection (d) corresponding to premiums that would have become due on and after that anniversary. The effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described by Section 1105.007 or 1105.151, as applicable, must be the same as the effects specified by Section 1105.007 or 1105.151, as applicable, on the cash surrender values determined under the applicable section.

(d) The nonforfeiture factor for each policy year must be an amount equal to a percentage of the adjusted premium for the policy year, as computed under Section 1105.052 or 1105.151, as applicable. That percentage must:

(1) be the same percentage for each policy year between the second policy anniversary and the later of:

(A) the fifth policy anniversary; or

(B) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one percent of:

(i) the amount of insurance, if the insurance is uniform in amount; or

(ii) the average amount of insurance at the beginning of each of the first 10 policy years; and

(2) be such that each percentage after the later of the policy anniversaries specified by Subdivision (1) applies to at least five consecutive policy years.

(e) Notwithstanding Subsection (d), the basic cash value may not be less than the value that would be obtained if the adjusted premiums for the policy, as computed under Section 1105.052 or 1105.151, as applicable, were substituted for the nonforfeiture factors in the computation of the basic cash value.

(f) In this section:

(1) an adjusted premium or present value for a particular policy must be computed on the same mortality and interest bases as those used to demonstrate that the policy complies with the other sections of this chapter; and

(2) the cash surrender values must include any endowment benefits available under the policy.

(g) The amount of any cash surrender value available other than on default in payment of a premium due on a policy anniversary, and the amount of any paid-up nonforfeiture benefits available under the policy on default in the payment of a premium, must be determined in a manner consistent with the manner specified by Section 1105.004, 1105.007, 1105.008, 1105.009, 1105.010, 1105.011, or Subchapter B to determine the analogous minimum amount. The amounts of any cash surrender value or paid-up nonforfeiture benefits granted in connection with additional benefits, such as those listed in Section 1105.011(b), must comply with the principles of this section. (V.T.I.C. Art. 3.44a, Sec. 11.)

Source Law

Sec. 11. This Section, in addition to all other applicable sections of this law, shall apply to all policies issued on or after January 1, 1985. Any cash surrender value available under

the policy in the event of default in a premium payment due on any policy anniversary shall be in an amount which does not differ by more than two-tenths of one per cent ($2/10$ of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years, from the sum of (a) the greater of zero and the basic cash value hereinafter specified and (b) the present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

The basic cash value shall be equal to the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid-up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after such anniversary. Provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in Section 3 or 5, whichever is applicable, shall be the same as are the effects specified in Section 3 or 5, whichever is applicable, on the cash surrender values defined in such applicable Section.

The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in Section 5 or 8, whichever is applicable. Such percentage (a) must be the same percentage for each policy year between the second policy anniversary and the later of (1) the fifth policy anniversary and (2) the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two-tenths of one per cent ($2/10$ of 1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and (b) must be such that no percentage after the later of the two (2) policy anniversaries specified in the preceding item (a) may apply to fewer than five (5) consecutive policy years. Notwithstanding the provisions contained in (a) and (b) of this paragraph, no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in Section 5 or 8, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

All adjusted premiums and present values referred to in this Section shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other sections of this Article. The cash surrender values referred to in this Section shall include

any endowment benefits provided for in the policy.

Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in Sections 2, 3, 4, 8, and 10. The amounts of any cash surrender values and of any paid-up nonforfeiture benefits granted in connection with additional benefits such as those listed in items (a) through (f) in Section 10 shall conform with the principles of this Section 11.

Revisor's Note

Section 11, V.T.I.C. Article 3.44a, provides that it applies to certain life insurance policies "in addition to all other applicable sections of this law." The revised law omits the quoted language because other applicable sections of Article 3.44a apply by their own terms, and it is unnecessary to include an express statement of the applicability of those provisions.

[Sections 1105.013-1105.050 reserved for expansion]

SUBCHAPTER B. COMPUTATION OF ADJUSTED PREMIUMS USING NONFORFEITURE NET LEVEL PREMIUM METHOD

Revised Law

Sec. 1105.051. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies to a policy issued on or after January 1, 1989.

(b) This subchapter also applies to a policy issued by a company after the date specified in a written notice:

(1) that was filed with the State Board of Insurance after August 31, 1981, but before January 1, 1989; and

(2) under which the company filing the notice elected to comply before January 1, 1989, with the law codified by this subchapter. (V.T.I.C. Art. 3.44a, Secs. 8(a) (part), (h).)

Source Law

Sec. 8. (a) This Section shall apply to all policies issued on or after the operative date of this Section 8 as defined herein. . . .

(h) After the effective date of this Section 8, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1989, which shall be the operative date of this Section for such company. If a company makes no such election, the operative date of this Section for such company shall be January 1, 1989.

Revisor's Note

Section 8(h), V.T.I.C. Article 3.44a, refers to "the effective date of this Section 8." Section 8 was added by Chapter 508, Acts of the 67th Legislature, Regular Session, 1981. The revised law substitutes August 31, 1981, the effective date of that chapter, for the quoted language.

Revised Law

Sec. 1105.052. COMPUTATION OF ADJUSTED PREMIUMS USING NONFORFEITURE NET LEVEL PREMIUM METHOD. (a) Except as provided by Section 1105.054 and subject to Subsection (b), the adjusted premiums for a policy to which this section applies must be computed on an annual basis and must be a uniform percentage of the respective premiums specified by the policy for each policy year so that the present value, at the date of issue of the policy, of all adjusted premiums is equal to the sum of:

(1) the then present value of the future guaranteed benefits available under the policy;

(2) one percent of:

(A) the amount of insurance, if the insurance is uniform in amount; or

(B) the average amount of insurance at the beginning of each of the first 10 policy years; and

(3) 125 percent of the nonforfeiture net level premium as determined under Subsection (d).

(b) The amount of premiums specified by the policy and used in computing adjusted premiums under Subsection (a) does not include:

(1) an amount payable as an extra premium to cover an impairment or special hazard; or

(2) any uniform annual contract charge or policy fee specified by the policy in a statement of the method to be used to compute the cash surrender values and paid-up nonforfeiture benefits.

(c) In applying the percentage specified by Subsection (a)(3), a nonforfeiture net level premium may not be considered to exceed four percent of:

(1) the amount of insurance, if the insurance is uniform in amount; or

(2) the average amount of insurance at the beginning of each of the first 10 policy years.

(d) The nonforfeiture net level premium must be equal to the present value, at the date of issue of the policy, of the guaranteed benefits available under the policy divided by the present value, on the date of issue of the policy, of an annuity of one per year payable on the date of issue of the policy and on each anniversary of the policy on which a premium becomes due.

(V.T.I.C. Art. 3.44a, Secs. 8(a) (part), (b).)

Source Law

Sec. 8. (a) . . . Except as provided in Section 8(d), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

(1) the then present value of the future guaranteed benefits provided for by the policy;

(2) one per cent (1%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(3) one hundred twenty-five per cent (125%) of the nonforfeiture net level premium as hereinafter defined.

Provided, however, that in applying the percentage specified in (3) above no nonforfeiture net level premium shall be deemed to exceed four per cent (4%) of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. . . .

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

Revised Law

Sec. 1105.053. COMPUTATION OF AMOUNTS FOR POLICY WITH CHANGING BENEFITS OR PREMIUMS. (a) This section applies only to a policy that:

(1) causes, on a basis guaranteed by the policy, unscheduled changes in benefits or premiums; or

(2) provides an option for changes in benefits or premiums other than a change to a new policy.

(b) The adjusted premiums and present values as to a policy to which this section applies must initially be computed on the assumption that future benefits and premiums will not change from those specified on the date the policy is issued. At the time of a change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums, and present values

must be recomputed on the assumption that future benefits and premiums will not change from those specified by the policy immediately after the change.

(c) Except as provided by Section 1105.054, the recomputed future adjusted premiums as to a policy to which this section applies must be a uniform percentage of the respective future premiums specified by the policy for each policy year, so that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums is equal to the amount by which the sum of the then present value of the then future guaranteed benefits available under the policy and the additional expense allowance, as computed under Subsection (e), if any, exceeds the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(d) The amount of future premiums specified by the policy and used in computing adjusted premiums under Subsection (c) does not include:

(1) an amount payable as an extra premium to cover an impairment or special hazard; or

(2) any uniform annual contract charge or policy fee specified by the policy in a statement of the method to be used to compute the cash surrender values and paid-up nonforfeiture benefits.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:

(1) one percent of the amount, if any, by which the average amount of insurance at the beginning of each of the first 10 policy years after the change exceeds the average amount of insurance before the change at the beginning of each of the first 10 policy years after the time of the most recent previous change or, if there has not been a previous change, the date the policy is issued; and

(2) 125 percent of any increase in the nonforfeiture net level premium.

(f) The recomputed nonforfeiture net level premium must be equal to the quotient of:

(1) the sum of:

(A) the nonforfeiture net level premium applicable before the change multiplied by the present value of an annuity of one per year payable on each anniversary of the policy on or after the date of the change on which a premium would have become due had the change not occurred; and

(B) the present value of the increase in future guaranteed benefits available under the policy; divided by

(2) the present value of an annuity of one per year payable on each anniversary of the policy, on or after the date of the change, on which a premium becomes due. (V.T.I.C.

Art. 3.44a, Sec. 8(c).)

Source Law

(c) In the case of policies which cause on a basis guaranteed in the policy unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

Except as otherwise provided in Section 8(d), the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (A) the sum of (i) the then present value of the then future guaranteed benefits provided for by the policy and (ii) the additional expense allowance, if any, over (B) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of (i) one per cent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (ii) one hundred twenty-five per cent (125%) of the increase, if positive, in the nonforfeiture net level premium.

The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (A) by (B) where (A) equals the sum of (i) the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(ii) the present value of the increase in future guaranteed benefits provided for by the policy, and (B) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

Revised Law

Sec. 1105.054. COMPUTATION OF AMOUNTS FOR POLICY ISSUED ON SUBSTANDARD BASIS. (a) This section applies only to a policy issued on a substandard basis that provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis that provides higher uniform amounts of insurance. This section applies notwithstanding any provision of this subchapter to the contrary.

(b) Adjusted premiums and present values as to a policy to which this section applies may be computed as if the policy were issued to provide the higher uniform amounts of insurance of an otherwise similar policy issued on the standard basis. (V.T.I.C. Art. 3.44a, Sec. 8(d).)

Source Law

(d) Notwithstanding any other provisions of this Section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

Revised Law

Sec. 1105.055. USE OF MORTALITY TABLES AND INTEREST RATES WITH NONFORFEITURE NET LEVEL PREMIUM METHOD. (a) Subject to Subsections (c)-(i), an adjusted premium or present value computed under this subchapter must be computed:

(1) for a policy of ordinary insurance:

(A) on the basis of the Commissioners 1980 Standard Ordinary Mortality Table; or

(B) at the option of the company for any one or more specified plans of life insurance, on the basis of the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; and

(2) for a policy of industrial insurance, on the basis of the Commissioners 1961 Standard Industrial Mortality Table.

(b) Subject to Subsections (c)-(i), computations on each policy issued in a particular calendar year must be made using a

rate of interest not to exceed the nonforfeiture interest rate as defined by Section 1105.056 for a policy issued in that calendar year.

(c) At the option of the company, computations for each policy issued in a particular calendar year may be made using a rate of interest not to exceed the nonforfeiture interest rate, as defined by Section 1105.056, for a policy issued in the preceding calendar year.

(d) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, regardless of whether required by Section 1105.004, must be computed on the basis of the mortality table and rate of interest used to determine the amount of the paid-up nonforfeiture benefit and any paid-up dividend additions.

(e) A company may compute the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate not less than the rate specified by the policy for computing cash surrender values.

(f) In the computation of the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than the rates shown in:

(1) the Commissioners 1980 Extended Term Insurance Table, for a policy of ordinary insurance; or

(2) the Commissioners 1961 Industrial Extended Term Insurance Table, for a policy of industrial insurance.

(g) For a policy issued on a substandard basis, the computation of any adjusted premium or present value may be based on appropriate modifications to a table described by Subsection (f).

(h) Any ordinary mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for:

(1) the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors; or

(2) the Commissioners 1980 Extended Term Insurance Table.

(i) Any industrial mortality table adopted after 1980 by the National Association of Insurance Commissioners that is approved by rules adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for:

(1) the Commissioners 1961 Standard Industrial Mortality Table; or

(2) the Commissioners 1961 Industrial Extended Term Insurance Table. (V.T.I.C. Art. 3.44a, Sec. 8(e).)

Source Law

(e) All adjusted premiums and present values referred to in this Section shall for all policies of ordinary insurance be calculated on the basis of (i) the Commissioners 1980 Standard Ordinary Mortality Table or (ii) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this Section for policies issued in that calendar year. Provided, however, that:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this Section, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by Section 2, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(6) Any ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the State Board of Insurance for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select

Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(7) Any industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the State Board of Insurance for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

Revisor's Note

(1) Section 8(e)(1), V.T.I.C. Article 3.44a, refers to "the immediately preceding calendar year." The revised law omits "immediately" as unnecessary. "The preceding" means "the immediately preceding."

(2) Sections 8(e)(6) and (7), V.T.I.C. Article 3.44a, refer to a "regulation." The revised law substitutes "rule" for "regulation" because that is the term more commonly used and is the term used by Chapter 2001, Government Code (Administrative Procedure Act). Also, under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law.

Revised Law

Sec. 1105.056. NONFORFEITURE INTEREST RATE. The annual nonforfeiture interest rate for a policy issued in a particular calendar year is equal to 125 percent of the calendar year statutory valuation interest rate for that policy as defined by Article 3.28, rounded to the nearest one-fourth of one percent. (V.T.I.C. Art. 3.44a, Sec. 8(f).)

Source Law

(f) The nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred and twenty-five per cent (125%) of the calendar year statutory valuation interest rate for such policy as defined in the Standard Valuation Law, rounded to the nearer one-fourth of one per cent (1/4 of 1%).

Revisor's Note

Section 8(f), V.T.I.C. Article 3.44a, refers to "the Standard Valuation Law." That law is contained in Article 3.28, Insurance Code, and the revised law substitutes a reference to Article 3.28.

Revised Law

Sec. 1105.057. REFILING OF POLICY PROVISIONS NOT REQUIRED. Notwithstanding any provision of this code to the contrary, as to a policy to which this subchapter applies, a refiling of nonforfeiture values or of the method of computing nonforfeiture

values for a previously approved policy form that involves only a change in the interest rate or mortality table used to compute nonforfeiture values does not require refiling of any provision of the policy form. (V.T.I.C. Art. 3.44a, Sec. 8(g).)

Source Law

(g) Notwithstanding any other provision in this Code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any provisions of that policy form.

[Sections 1105.058-1105.100 reserved for expansion]

SUBCHAPTER C. NONFORFEITURE BENEFITS
FOR CERTAIN PLANS

Revised Law

Sec. 1105.101. NONFORFEITURE BENEFITS FOR INDETERMINATE PREMIUM PLANS AND CERTAIN OTHER PLANS. (a) This section applies to a plan of life insurance that:

(1) provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience; or

(2) is such that minimum values cannot be determined by a method described by Sections 1105.004-1105.009, Subchapter B, or Subchapter D.

(b) The department must be satisfied that:

(1) the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Sections 1105.004-1105.009, Subchapter B, or Subchapter D; and

(2) the benefits and the pattern of premiums of the plan are not such as to mislead prospective policyholders or insured persons.

(c) The cash surrender values and paid-up nonforfeiture benefits provided by the plan may not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this subchapter as determined under rules adopted by the commissioner.

(d) Notwithstanding any other law of this state, any policy, contract, or certificate providing life insurance under the plan must be approved by the department before the plan may be marketed, issued, delivered, or used in this state. (V.T.I.C. Art. 3.44a, Sec. 9.)

Source Law

Sec. 9. In the case of any plan of life insurance which

provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in Section 2, 3, 4, 5, 6, 7, or 8 herein, then:

(a) The State Board of Insurance must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by Section 2, 3, 4, 5, 6, 7, or 8 herein.

(b) The State Board of Insurance must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds.

(c) The cash surrender values and paid-up nonforfeiture benefits provided by such plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for Life Insurance, as determined by regulations promulgated by the State Board of Insurance.

(d) Notwithstanding any other provision in the laws of this state, any policy, contract, or certificate providing life insurance under any such plan must be affirmatively approved by the State Board of Insurance before it can be marketed, issued, delivered, or used in this state.

Revisor's Note

Section 9(c), V.T.I.C. Article 3.44a, refers to "regulations." The revised law substitutes "rules" for "regulations" for the reasons stated in Revisor's Note (2) to Section 1105.055.

[Sections 1105.102-1105.150 reserved for expansion]

SUBCHAPTER D. COMPUTATION OF ADJUSTED PREMIUMS FOR CERTAIN POLICIES

Revised Law

Sec. 1105.151. COMPUTATION OF ADJUSTED PREMIUMS FOR CERTAIN POLICIES ISSUED BEFORE JANUARY 1, 1989. (a) This section applies only to a policy issued before January 1, 1989, to which Subchapter B does not apply.

(b) The adjusted premiums for a policy to which this section applies must be computed on an annual basis or, at the option of the company, on a fully continuous basis if that basis is consistent with actual policy provisions and the use of that basis is specified by the policy.

(c) Except as provided by Subsection (f), the adjusted premiums must be a uniform percentage of the respective premiums specified by the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, so that the present value, as of the date the

policy is issued, of all the adjusted premiums is equal to the sum of:

- (1) the then present value of the future guaranteed benefits available under the policy;

- (2) two percent of:

- (A) the amount of insurance, if the insurance is uniform in amount; or

- (B) the equivalent uniform amount of insurance, as determined under this section, if the amount of insurance varies with the duration of the policy;

- (3) 40 percent of the adjusted premium for the first policy year; and

- (4) 25 percent of the lesser of:

- (A) the adjusted premium for the first policy year; or

- (B) the adjusted premium for a whole life policy of the same or an equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance.

(d) In applying the percentages specified by Subsections (c)(3) and (4), an adjusted premium may not be considered to exceed four percent of the amount of insurance or equivalent uniform amount.

(e) For purposes of this section, for a policy that provides an amount of insurance that varies with the duration of the policy:

- (1) except as provided by Subdivision (2), the equivalent uniform amount of insurance is considered to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; and

- (2) if the policy is issued on the life of a child younger than 10 years of age, the equivalent uniform amount of insurance may be computed as though the amount of insurance provided by the policy before the insured reaches 10 years of age were the amount provided by the policy at age 10.

(f) The adjusted premiums for a policy that provides term insurance benefits by rider or a supplemental policy provision must be equal to the adjusted premiums for an otherwise similar policy issued at the same age without the term insurance benefits, increased, during the period for which premiums for the term insurance benefits are payable, by the adjusted premiums for the term insurance. The adjusted premiums specified by this subsection must be computed separately in the manner specified by Subsections (b)-(e). (V.T.I.C. Art. 3.44a, Secs. 5(a) (part)),

(b), (c).)

Source Law

Sec. 5. (a) This Section 5 shall not apply to policies issued on or after the operative date of Section 8 as defined therein. Except as provided in Section 5(c), the adjusted premiums for any policy shall be calculated on an annual basis, or at the option of the company on a fully continuous basis provided such basis is consistent with actual policy provisions and the use of such basis is specified therein, and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts stated in the policy as extra premiums to cover impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(1) the then present value of the future guaranteed benefits provided for by the policy;

(2) two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;

(3) forty per cent (40%) of the adjusted premium for the first policy year;

(4) twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. Provided, however, that in applying the percentages specified in (3) and (4) above, no adjusted premium shall be deemed to exceed four per cent (4%) of the amount of insurance or uniform amount equivalent thereto. . . .

(b) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this Section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

(c) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision

shall be equal to (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, the foregoing items (1) and (2) being calculated separately and as specified in Sections 5(a) and 5(b).

Revisor's Note

Section 5(a), V.T.I.C. Article 3.44a, states that it does not apply to insurance policies "issued on or after the operative date of Section 8 as defined therein." The revised law provides that it applies only to "a policy issued before January 1, 1989, to which Subchapter B does not apply" and omits the reference to "the operative date of Section 8" for the reason stated in the revisor's note to Section 1105.007.

Revised Law

Sec. 1105.152. COMPUTATION OF ADJUSTED PREMIUMS FOR CERTAIN ORDINARY POLICIES ISSUED BEFORE JANUARY 1, 1989. (a) Except as provided by Subsection (b), this section applies only to an ordinary policy to which Subchapter B does not apply and that is issued on or after January 1, 1974 and before January 1, 1989.

(b) This section also applies to an ordinary policy issued by a company after a date specified in a written notice:

(1) that was filed by the company with the State Board of Insurance after August 23, 1963, but before January 1, 1974; and

(2) under which the company filing the notice elected to comply before January 1, 1974, with the law codified by this section.

(c) An adjusted premium or present value determined under this chapter as to a policy to which this section applies must be computed on the basis of the Commissioners 1958 Standard Ordinary Mortality Table.

(d) A computation as to a policy to which this section applies must be made using the rate of interest specified by the policy for computing cash surrender values and paid-up nonforfeiture benefits, except that the rate of interest may not exceed:

(1) 3-1/2 percent a year for a policy issued before June 14, 1973;

(2) 4 percent a year for a policy issued on or after June 14, 1973, and before August 29, 1977;

(3) 5-1/2 percent a year for a policy issued on or after August 29, 1977, other than a single premium whole life or endowment insurance policy; or

(4) 6-1/2 percent a year for a single premium whole life or endowment insurance policy issued on or after August 29,

1977.

(e) For a category of ordinary insurance issued to insure a female risk:

(1) an adjusted premium or present value for a policy issued before August 29, 1977, may be computed according to an age not more than three years younger than the actual age of the insured; and

(2) an adjusted premium or present value for a policy issued on or after August 29, 1977, may be computed according to an age not more than six years younger than the actual age of the insured.

(f) In the computation of the present value of paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not exceed the rates shown in the Commissioners 1958 Extended Term Insurance Table.

(g) Subject to approval by the department, a company may specify a mortality table other than the table required by this section for use in computing an adjusted premium or present value for insurance issued on a substandard basis. (V.T.I.C. Art. 3.44a, Sec. 6.)

Source Law

Sec. 6. This Section 6 shall not apply to ordinary policies issued on or after the operative date of Section 8 as defined therein. In the case of ordinary policies issued on or after the operative date of this Section 6 as defined herein, all adjusted premiums and present values referred to in this Article shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after June 14, 1973, and prior to August 29, 1977, and a rate of interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after August 29, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than three years younger than the actual age of the insured for policies issued prior to August 29, 1977, and for policies issued on and after August 29, 1977, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. Provided, however, that in

calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the State Board of Insurance.

After the effective date of this Article, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1974. After the filing of such notice, then upon such specified date (which shall be the operative date of this Section for such company), this Section shall become operative with respect to the ordinary policies thereafter issued by such company prior to the operative date of Section 8 as defined therein. If a company makes no such election, the operative date of this Section for such company shall be January 1, 1974.

Revisor's Note

(1) Section 6, V.T.I.C. Article 3.44a, states that it does not apply to insurance policies "issued on or after the operative date of Section 8 as defined therein." Section 6 also refers to "the operative date of this Section 6 as defined herein." The revised law provides that it applies only to "an ordinary policy to which Subchapter B does not apply" and omits the reference to "the operative date of Section 8" for the reason stated in the revisor's note to Section 1105.007. The revised law also omits the reference to "the operative date" of Section 6 and substitutes a clear statement of the law's applicability to certain life insurance policies.

(2) Section 6, V.T.I.C. Article 3.44a, refers to "the effective date of this Article." The revised law substitutes August 23, 1963, the effective date of Article 3.44a, for the quoted language.

Revised Law

Sec. 1105.153. COMPUTATION OF ADJUSTED PREMIUMS FOR CERTAIN INDUSTRIAL POLICIES ISSUED BEFORE JANUARY 1, 1989. (a) Except as provided by Subsection (b), this section applies only to an industrial policy to which Subchapter B does not apply and that is issued on or after January 1, 1974, and before January 1, 1989.

(b) This section also applies to an industrial policy issued by a company after a date specified in a written notice:

(1) that was filed by the company with the State Board of Insurance after August 23, 1963, but before January 1, 1974;

and

(2) under which the company filing the notice elected to comply before January 1, 1974, with the law codified by this section.

(c) An adjusted premium or present value determined under this chapter as to a policy to which this section applies must be computed on the basis of the Commissioners 1961 Standard Industrial Mortality Table.

(d) A computation as to a policy to which this section applies must be made using the rate of interest specified by the policy for computing cash surrender values and paid-up nonforfeiture benefits, except that the rate of interest may not exceed:

(1) 3-1/2 percent a year for a policy issued before June 14, 1973;

(2) 4 percent a year for a policy issued on or after June 14, 1973, and before August 29, 1977;

(3) 5-1/2 percent a year for a policy issued on or after August 29, 1977, other than a single premium whole life or endowment insurance policy; or

(4) 6-1/2 percent a year for a single premium whole life or endowment insurance policy issued on or after August 29, 1977.

(e) In the computation of the present value of paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not exceed the rates shown in the Commissioners 1961 Industrial Extended Term Insurance Table.

(f) Subject to approval by the department, a company may specify a mortality table other than the table required by this section for use in computing an adjusted premium or present value for insurance issued on a substandard basis. (V.T.I.C. Art. 3.44a, Sec. 7.)

Source Law

Sec. 7. This Section 7 shall not apply to industrial policies issued on or after the operative date of Section 8 as defined therein. In the case of industrial policies issued on or after the operative date of this Section 7 as defined herein, all adjusted premiums and present values referred to in this Article shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits provided that such rate of interest shall not exceed three and one-half per cent (3 1/2%) per annum, except that a rate of interest not exceeding four per cent (4%) per annum may be used for policies issued on or after June 14, 1973, and prior to August 29, 1977, and a rate of

interest not exceeding five and one-half per cent (5 1/2%) per annum may be used for policies issued on or after August 29, 1977, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half per cent (6 1/2%) per annum may be used. Provided, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculations of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the State Board of Insurance.

After the effective date of this Article, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Section after a specified date before January 1, 1974. After the filing of such notice, then upon such specified date (which shall be the operative date of this Section for such company), this Section shall become operative with respect to the industrial policies thereafter issued by such company prior to the operative date of Section 8 as defined therein. If a company makes no such election, the operative date of this Section for such company shall be January 1, 1974.

Revisor's Note

(1) Section 7, V.T.I.C. Article 3.44a, states that it does not apply to insurance policies "issued on or after the operative date of Section 8 as defined therein." Section 7 also refers to "the operative date of this Section 7 as defined herein." The revised law provides that it applies only to "an industrial policy to which Subchapter B does not apply" and omits the reference to "the operative date of Section 8" for the reason stated in the revisor's note to Section 1105.007. The revised law also omits the reference to "the operative date" of Section 7 and substitutes a clear statement of the law's applicability to certain life insurance policies.

(2) Section 7, V.T.I.C. Article 3.44a, refers to "the effective date of this Article." The revised law substitutes August 23, 1963, the effective date of Article 3.44a, for the quoted language.

CHAPTER 1106. REINSTATEMENT OF CERTAIN LIFE INSURANCE POLICIES

- Sec. 1106.001. APPLICABILITY OF CHAPTER 1480
- Sec. 1106.002. REINSTATEMENT REQUIRED; EXCEPTION 1480
- Sec. 1106.003. MENTAL INCAPACITY DEFINED 1481
- Sec. 1106.004. DIAGNOSIS OF MENTAL INCAPACITY REQUIRED 1481

Sec. 1106.005. REQUEST FOR REINSTATEMENT; LIMITATION 1482
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Sec. 1106.007. EFFECT OF REINSTATEMENT 1483
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Sec. 1106.010. RULES 1485

CHAPTER 1106. REINSTATEMENT OF CERTAIN LIFE INSURANCE
POLICIES

Revised Law

Sec. 1106.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to each individual life insurance policy issued to a resident of this state by an insurer authorized to engage in the business of insurance in this state, including a stipulated premium company and a fraternal benefit society, that is subject to lapse on or after September 1, 1995.

(b) This chapter does not apply to a life insurance policy that provides nonforfeiture benefits in accordance with the requirements of this code. (V.T.I.C. Art. 3.44d, Sec. 1.)

Source Law

Art. 3.44d

Sec. 1. (a) This article applies to all individual life insurance policies issued to residents of this state that are subject to lapsing on and after the effective date of this Act, issued by an insurer authorized to do business in this state including stipulated premium companies and fraternal benefit societies.

(b) This article does not apply to a life insurance policy that provides nonforfeiture benefits in accordance with the requirements of this code.

Revisor's Note

Section 1(a), V.T.I.C. Article 3.44d, provides that Article 3.44d applies to individual life insurance policies that are subject to lapsing on and after "the effective date of this Act." Article 3.44d took effect September 1, 1995. The revised law substitutes that date for the quoted language.

Revised Law

Sec. 1106.002. REINSTATEMENT REQUIRED; EXCEPTION. (a) On the lapse of an individual life insurance policy following the unintentional default in the payment of premiums caused by the mental incapacity of the insured, a person is entitled to have the policy reinstated under this chapter if:

(1) the policy had been in effect continuously for at least five years immediately preceding the lapse; and

(2) there was not a default in the payment of premiums on the policy during the period described by Subdivision (1).

(b) The insurer is not required to reinstate a policy or

pay benefits under this chapter if the insured first became mentally incapacitated after the expiration of an applicable grace period contained in the policy. (V.T.I.C. Art. 3.44d, Secs. 2(a), 7.)

Source Law

Sec. 2. (a) A policy shall be entitled to reinstatement under this article if:

(1) it has been in effect continuously for at least five years immediately preceding the lapse;

(2) it has been without default in the payment of premiums during such period; and

(3) there is a subsequent unintentional default in premium payments caused by mental incapacity of the insured.

Sec. 7. An insurer is not required to reinstate coverage or pay benefits under this article if the insured first became mentally incapacitated after the expiration of an applicable grace period contained in the policy.

Revised Law

Sec. 1106.003. MENTAL INCAPACITY DEFINED. In this chapter, "mental incapacity" means a lack of the ability to:

(1) understand and appreciate the nature and consequences of a decision regarding the failure to pay a premium when due; and

(2) reach an informed decision in the matter.

(V.T.I.C. Art. 3.44d, Sec. 3(a) (part).)

Source Law

Sec. 3. (a) For purposes of this article, mental incapacity means lacking the ability . . . to understand and appreciate the nature and consequences of a decision regarding failure to pay a premium when due and the ability to reach an informed decision in the matter.

Revised Law

Sec. 1106.004. DIAGNOSIS OF MENTAL INCAPACITY REQUIRED. For purposes of this chapter, mental incapacity must be:

(1) established by the clinical diagnosis of a physician licensed in this state who is qualified to make the diagnosis; and

(2) based on reasonable medical judgment. (V.T.I.C. Art. 3.44d, Secs. 3(a) (part), (b).)

Source Law

(a) [For purposes of this article, mental incapacity means lacking the ability], based on reasonable medical

judgment

(b) Mental incapacity must be established by the clinical diagnosis of a physician licensed in this state and qualified to make the diagnosis.

Revised Law

Sec. 1106.005. REQUEST FOR REINSTATEMENT; LIMITATION.

(a) A request for reinstatement of a policy under this chapter and proof of mental incapacity may be filed with the insurer by:

- (1) the insured;
- (2) the insured's legal guardian or other legal representative; or
- (3) the legal representative of the insured's estate.

(b) The request and the proof of mental incapacity must be filed not later than the first anniversary of the date the policy lapses. (V.T.I.C. Art. 3.44d, Sec. 4.)

Source Law

Sec. 4. (a) A request for reinstatement of coverage under this article and proof of mental incapacity may be filed with the insurer by:

- (1) the insured;
- (2) the legal guardian of the insured;
- (3) other legal representative of the insured; or
- (4) the legal representative of the estate of the insured.

(b) Proof of mental incapacity and an accompanying request for reinstatement must be made not later than the first anniversary date after the lapse of a policy eligible for reinstatement.

Revised Law

Sec. 1106.006. REINSTATEMENT. (a) After the requirements of Section 1106.005 have been satisfied, the insurer shall reinstate the policy.

(b) The policy must be reinstated within one year from the date of lapse on payment of:

- (1) the premiums owed from the date of initial lapse to the date of reinstatement; and
- (2) interest on the premiums at a rate not to exceed six percent a year for the period.

(c) The insurer may not require evidence of insurability as a condition of reinstatement. (V.T.I.C. Art. 3.44d, Secs. 2(b), 5(a), (b).)

Source Law

[Sec. 2]

(b) A policy shall be reinstated within one year from the

date of lapse if it is an eligible policy as described by this section, on payment of arrears of premiums with interest. The rate of interest may not exceed six percent per annum.

Sec. 5. (a) After the requirements of Section 4 have been satisfied, an insurer subject to this article shall reinstate, without evidence of insurability, coverage that has lapsed under the circumstances described by Section 2.

(b) An insurer may require, as a condition of reinstatement, payment of premiums plus interest owed for the period from the date of initial lapse to the date of reinstatement.

Revised Law

Sec. 1106.007. EFFECT OF REINSTATEMENT. On reinstatement of the policy, the original contractual provisions apply as if the coverage had been continuous. (V.T.I.C. Art. 3.44d, Sec. 5(c).)

Source Law

(c) On reinstatement of the coverage, the original contractual provisions apply as if coverage had been continuous and without interruption.

Revisor's Note

Section 5(c), V.T.I.C. Article 3.44d, provides that on reinstatement of a life insurance policy, the original contractual provisions apply as if "coverage had been continuous and without interruption." The reference to "without interruption" is omitted from the revised law because "without interruption" is included within the meaning of "continuous."

Revised Law

Sec. 1106.008. REDUCTION IN BENEFITS. If there is an uncontroverted claim for benefits in an amount that exceeds the amount of premiums and interest owed and unpaid under a policy that is eligible for reinstatement under this chapter, the insurer shall pay the amount of benefits owed reduced by the amount of premiums and interest owed and unpaid on the date the benefits are paid. (V.T.I.C. Art. 3.44d, Sec. 6.)

Source Law

Sec. 6. An insurer shall pay the amount of benefits owed under a policy that is eligible for reinstatement under this article, reduced by the amount of premiums and interest owed and unpaid on the date on which the benefits are paid, if there is an uncontroverted claim for benefits that exceed the amount of premiums and interest owed.

Revised Law

Sec. 1106.009. DISCLOSURE. (a) Each insurer shall disclose fully to each policyholder or insured the requirements of this chapter.

(b) As to a policy to which this chapter applies that was issued on or after September 1, 1995, an insurer may make the disclosure required by Subsection (a):

(1) not later than the 90th day after the date the policy lapses; or

(2) by including the disclosure information in the policy or in an endorsement attached to the policy.

(c) As to a policy to which this chapter applies that was issued before September 1, 1995, and for which the insurer did not make the required disclosure on or before November 30, 1995, the insurer shall make the disclosure required by Subsection (a) not later than the 90th day after the date the policy lapses.

(d) Notice is considered to comply with Subsection (b) or (c) if the notice is mailed by first class mail to the last known address of the policyholder. (V.T.I.C. Art. 3.44d, Secs. 8(a), (b), (c).)

Source Law

Sec. 8. (a) Each licensed entity shall disclose fully to each of its policyholders, contract holders, or covered persons the requirements of this article.

(b) The disclosure shall be forwarded to applicable policyholders, contract holders, or covered persons either:

(1) within 90 days following lapse of a policy regulated by this article; or

(2) within 90 days after the effective date of this article to each existing policyholder whose policy is regulated by this article. Disclosure thereafter on policies issued after the effective date of this article may be made by including the disclosure information in the policy or in an endorsement attached to the policy.

(c) Notice will be deemed to be in compliance with this article if mailed by first class mail to the last known address of the policyholder or if contained in the policy form or as an endorsement thereto.

Revisor's Note

(1) Section 8(a), V.T.I.C. Article 3.44d, refers to a "licensed entity," "contract holders," and "covered persons." The revised law substitutes "insurer" for "licensed entity" and omits "contract holders" because Article 3.44d applies only to insurance policies. The revised law substitutes "insured" for "covered person" for consistency with other provisions of this chapter.

(2) Section 8(b), V.T.I.C. Article 3.44d, requires a licensed entity to disclose the requirements of Article 3.44d within 90 days of the lapse of a policy regulated by Article 3.44d or "within 90 days after the effective date of this article to each existing policyholder whose policy is regulated by this article." Article 3.44d took effect September 1, 1995. The revised law substitutes November 30, 1995, for "90 days after the effective date of this article." The revised law also substitutes "a policy to which this chapter applies that was issued before September 1, 1995," for "each existing policyholder whose policy is regulated by this article." Section 8(b) also refers to "policies issued after the effective date of this article"; the revised law substitutes September 1, 1995, for "the effective date of this article."

Revised Law

Sec. 1106.010. RULES. The commissioner shall adopt reasonable rules to implement this chapter, and the disclosure required by Section 1106.009 must be made in the form and manner prescribed by the commissioner after notice and hearing. (V.T.I.C. Art. 3.44d, Sec. 8(d).)

Source Law

(d) The commissioner shall adopt reasonable rules to implement this article. Such disclosure must be made in the form and manner prescribed by the commissioner after notice and hearing.

CHAPTER 1107. STANDARD NONFORFEITURE LAW FOR CERTAIN ANNUITIES

SUBCHAPTER A. GENERAL PROVISIONS

- Sec. 1107.001. APPLICABILITY OF CHAPTER 1487
- Sec. 1107.002. EXEMPTIONS 1488
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- Sec. 1107.004. OPTIONAL TERMINATION PROVISION 1491
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SUBCHAPTER B. COMPUTATION OF MINIMUM NONFORFEITURE AMOUNT

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[Sections 1107.055-1107.100 reserved for expansion]

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- Sec. 1107.101. PRESENT VALUE OF PAID-UP ANNUITY BENEFIT 1497
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CHAPTER 1107. STANDARD NONFORFEITURE LAW
FOR CERTAIN ANNUITIES

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1107.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to an annuity contract issued on or after August 29, 1979.

(b) This chapter also applies to an annuity contract issued by a company after a date specified in a written notice:

(1) that was filed with the State Board of Insurance after August 29, 1977, but before August 29, 1979; and

(2) under which the company filing the notice elected to comply before August 29, 1979, with the law codified by this chapter. (V.T.I.C. Art. 3.44b, Secs. 1 (part), 11.)

Source Law

Art. 3.44b

Sec. 1. In the case of contracts issued on or after the operative date of this Article as defined in Section 11, no contract of annuity, except as stated in Section 10, shall be delivered or issued for delivery in this state

Sec. 11. After the effective date of this Article, any company may file with the State Board of Insurance a written notice of its election to comply with the provisions of this Article after a specified date before the second anniversary of the effective date of this Article. After the filing of such notices, then upon such specified date, which shall be the operative date of this Article for such company, the Article shall become operative with respect to annuity contracts thereafter issued by such company. If a company makes no such election, the operative date of this Article for such company shall be the second anniversary of the effective date of this Article.

Revisor's Note

Section 11, V.T.I.C. Article 3.44b, refers to "the effective date of this Article" and "the second anniversary of the effective date of this Article." The effective date of Article 3.44b is August 29, 1977. Therefore the revised law substitutes "August 29, 1977" for "the effective date of this Article" and "August 29, 1979" for "the second anniversary of the effective date of this Article."

Revised Law

Sec. 1107.002. EXEMPTIONS. (a) This chapter does not apply to:

- (1) a reinsurance contract;
- (2) a group annuity contract that is purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, by an employee organization, or by both, other than a plan that provides individual retirement accounts or individual retirement annuities under Section 408, Internal Revenue Code of 1986, as amended;
- (3) a premium deposit fund;
- (4) a variable annuity contract;
- (5) an investment annuity contract;
- (6) an immediate annuity contract;
- (7) a deferred annuity contract under which annuity payments have begun; or
- (8) a reversionary annuity contract.

(b) This chapter does not apply to a contract delivered outside this state through an agent or other representative of the company that issues the contract. (V.T.I.C. Art. 3.44b, Sec. 10.)

Source Law

Sec. 10. This Article shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship), or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1954, as amended (Title 26, United States Code, as amended), premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

Revisor's Note

Section 10, V.T.I.C. Article 3.44b, refers to Section 408 of the Internal Revenue Code of 1954. That section is now incorporated in the Internal Revenue Code of 1986 and the revised law is drafted accordingly.

Revised Law

Sec. 1107.003. REQUIRED NONFORFEITURE PROVISIONS. (a) An annuity contract delivered or issued for delivery in this state must contain in substance the provisions prescribed by this section or corresponding provisions that, in the opinion of the department, are at least as favorable to the contract holder when payment of considerations under the contract ceases.

(b) The annuity contract must provide that when payment of considerations under a contract ceases, the company will grant a paid-up annuity benefit on a plan stipulated in the contract that has a value that complies with this chapter.

(c) An annuity contract that provides for a lump-sum settlement at maturity or at any other time must provide that on surrender of the contract on or before the time annuity payments begin, the company that issues the contract will pay a cash surrender benefit in an amount that complies with this chapter in lieu of a paid-up annuity benefit. A company shall reserve the right to defer payment of any cash surrender benefit for a period of six months after demand for payment of the benefit is made with surrender of the contract.

(d) An annuity contract must contain:

(1) a statement of the mortality table, if any, and interest rates to be used to compute any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with information that is sufficient to determine the amounts of the benefits;

(2) a statement that any paid-up annuity, cash surrender, or death benefits available under the contract are not less than the minimum benefits required by this state; and

(3) an explanation of the manner in which a paid-up annuity, cash surrender, or death benefit is altered by the existence of any additional amounts credited to the contract by the company that issues the contract, any indebtedness to the company on the contract, or any prior withdrawals from or partial surrenders of the contract. (V.T.I.C. Art. 3.44b, Sec. 1 (part).)

Source Law

Sec. 1. [In the case of contracts issued on or after the operative date of this Article as defined in Section 11,] no contract of annuity, [except as stated in Section 10,] shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding

provisions which in the opinion of the State Board of Insurance are at least as favorable to the contract holder, on cessation of payment of considerations under the contract.

(a) That on cessation of payment of considerations under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in Sections 3, 4, 5, 6, and 8 of this Article.

(b) If a contract provides for a lump-sum settlement at maturity, or at any other time, that on surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in Sections 3, 4, 6, and 8 of this Article. The company shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Revisor's Note

(1) Section 1, V.T.I.C. Article 3.44b, refers to the "State Board of Insurance." Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the State Board of Insurance and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. The reference to the State Board of Insurance has been changed appropriately.

(2) Section 1, V.T.I.C. Article 3.44b, requires an annuity contract to state that certain benefits are not less than the minimum benefits "required by any statute of the state in which the contract is delivered." The revised law substitutes "required by this state" for the quoted language because Section 1, V.T.I.C. Article 3.44b, applies only to a life insurance

policy "delivered or issued for delivery in this state."

Revised Law

Sec. 1107.004. OPTIONAL TERMINATION PROVISION. (a)
Notwithstanding the requirements of Section 1107.003, an annuity contract may provide that the company has the option to terminate the contract by making a cash payment of the then present value of that portion of the paid-up annuity benefit if:

(1) no considerations are received under the contract for two years; and

(2) at maturity, payments on the portion of the paid-up annuity benefit on the plan stipulated in the contract attributable to considerations paid before that period would be less than \$20 each month.

(b) If an annuity contract contains a provision permitted under Subsection (a):

(1) the present value of a portion of a paid-up annuity benefit paid under that provision must be computed on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit; and

(2) a payment made under that provision relieves the company of any further obligation under the contract. (V.T.I.C. Art. 3.44b, Sec. 1 (part).)

Source Law

Sec. 1. . . .

Notwithstanding the requirements of this Section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars (\$20.00) monthly, the company may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

Revisor's Note

Section 1, V.T.I.C. Article 3.44b, refers to a "deferred annuity contract." Under Section 10 of that article, revised as Section 1107.002, this chapter applies only to a deferred annuity. The revised law omits the reference to "deferred" as unnecessary and to ensure consistent use of terminology in this chapter.

Revised Law

Sec. 1107.005. CONTRACT DISCLOSURE THAT CERTAIN BENEFITS NOT PROVIDED. An annuity contract that does not provide a cash surrender benefit or that does not provide a death benefit that is at least equal to the minimum nonforfeiture amount for the contract under Subchapter B before annuity payments begin must include a statement in a prominent place in the contract that those benefits are not provided. (V.T.I.C. Art. 3.44b, Sec. 7.)

Source Law

Sec. 7. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum non-forfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

Revised Law

Sec. 1107.006. MATURITY DATE. (a) In determining the value of benefits under Sections 1107.102, 1107.103, and 1107.104, and subject to Subsection (b), if an annuity contract permits an election to have annuity payments begin on optional maturity dates, the maturity date is considered to be the latest date on which an election is permitted by the contract.

(b) A maturity date determined under this section may not be later than the later of:

(1) the next anniversary of the annuity contract that follows the annuitant's 70th birthday; or

(2) the 10th anniversary of the contract. (V.T.I.C. Art. 3.44b, Sec. 6.)

Source Law

Sec. 6. For the purpose of determining the benefits calculated under Sections 4 and 5 of this Article, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's 70th birthday or the 10th anniversary of the contract, whichever is later.

[Sections 1107.007-1107.050 reserved for expansion]

SUBCHAPTER B. COMPUTATION OF MINIMUM
NONFORFEITURE AMOUNT

Revised Law

Sec. 1107.051. MINIMUM NONFORFEITURE AMOUNT. The minimum value under Subchapter C of a paid-up annuity, cash surrender, or

death benefit shall be computed on the basis of the minimum nonforfeiture amount prescribed by this subchapter. (V.T.I.C. Art. 3.44b, Sec. 2 (intro).)

Source Law

Sec. 2. The minimum values as specified in Sections 3, 4, 5, 6, and 8 of this Article of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum non-forfeiture amounts as defined in this Section.

. . .

Revisor's Note

Section 2, V.T.I.C. Article 3.44b, refers to the "minimum values as specified in Sections 3, 4, 5, 6, and 8 of this Article of any paid-up annuity, cash surrender, or death benefits." The portions of those sections that specify minimum values for paid-up annuity, cash surrender, or death benefits are revised as part of Subchapter C, which also includes other related provisions. The revised law is drafted accordingly.

Revised Law

Sec. 1107.052. CONTRACT WITH FLEXIBLE CONSIDERATIONS. (a) This section applies only to an annuity contract that provides for the payment of flexible considerations.

(b) The minimum nonforfeiture amount on or before annuity payments begin is an amount equal to the accumulation of the prescribed percentages of the amount of net considerations paid to the date of computation, which are accumulated at an interest rate of three percent per year, plus any additional amount credited to the contract by the company, less the amount of:

(1) any withdrawal from or partial surrender of the contract made before the minimum nonforfeiture amount is computed, accumulated at an interest rate of three percent per year; and

(2) any indebtedness to the company on the contract, including any accrued interest due on the indebtedness.

(c) For the purposes of this section, the amount of net consideration for a contract year may not be less than \$0 and is computed by subtracting from the amount of gross considerations credited to the contract during that contract year:

(1) an annual contract charge of \$30; and
(2) a collection charge of \$1.25 for each consideration credited to the contract during that year.

(d) Except as provided by Subsection (e), the percentage of the amount of net consideration to be used in computing a minimum nonforfeiture amount under Subsection (b) is:

(1) 65 percent for the first contract year; and
(2) 87.5 percent for each subsequent contract year.

(e) For a renewal contract year, the percentage of the amount of net consideration to be used to compute a minimum nonforfeiture amount under Subsection (b) is 65 percent of the portion of the total amount of net consideration that exceeds by not more than two times the sum of those portions of the amount of net consideration in all preceding contract years for which the percentage was 65 percent. (V.T.I.C. Art. 3.44b, Sec. 2(a).)

Source Law

(a) With respect to contracts providing for flexible considerations, the minimum non-forfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three per cent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three per cent (3%) per annum; and

(2) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum non-forfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five per cent (65%) of the net consideration for the first contract year and eighty-seven and one-half per cent (87 1/2%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five per cent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five per cent (65%).

Revised Law

Sec. 1107.053. CONTRACT WITH FIXED, SCHEDULED CONSIDERATIONS. (a) For an annuity contract that provides for the payment of fixed, scheduled considerations, the minimum nonforfeiture amount is computed in the same manner as the minimum nonforfeiture amount for an annuity contract with flexible considerations that are paid annually, except that:

(1) the amount of net consideration for a contract year is computed using an annual contract charge equal to the lesser of:

(A) \$30; or

(B) 10 percent of the amount of the gross annual considerations paid on the contract; and

(2) the percentage of the net consideration amount for the first contract year to be used to compute the minimum nonforfeiture amount is 65 percent of the amount of net consideration for the first contract year plus 22.5 percent of the amount by which the amount of net consideration for the first contract year exceeds the lesser of:

(A) the amount of net consideration for the second contract year; or

(B) the amount of net consideration for the third contract year.

(b) The computation made under Subsection (a) must assume that the considerations are paid annually in advance. (V.T.I.C. Art. 3.44b, Sec. 2(b).)

Source Law

(b) With respect to contracts providing for fixed scheduled considerations, minimum non-forfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(1) the portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five per cent (65%) of the net consideration for the first contract year plus twenty-two and one-half per cent (22 1/2%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years; and

(2) the annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten per cent (10%) of the gross annual consideration.

Revised Law

Sec. 1107.054. CONTRACT WITH SINGLE CONSIDERATION. For an annuity contract that provides for the payment of a single consideration, the minimum nonforfeiture amount is computed in the same manner as the minimum nonforfeiture amount for a contract with flexible considerations, except that:

(1) the net consideration amount to be used to compute the minimum nonforfeiture amount is the amount of the gross considerations paid under the contract less a contract charge of \$75; and

(2) the percentage of the net consideration amount to be used to compute the minimum nonforfeiture amount is 90 percent. (V.T.I.C. Art. 3.44b, Sec. 2(c).)

Source Law

(c) With respect to contracts providing for a single consideration, minimum non-forfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum non-forfeiture amount shall be equal to ninety per cent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00).

[Sections 1107.055-1107.100 reserved for expansion]

SUBCHAPTER C. VALUE OF NONFORFEITURE BENEFITS

Revised Law

Sec. 1107.101. PRESENT VALUE OF PAID-UP ANNUITY BENEFIT.

(a) The present value of any paid-up annuity benefit available under an annuity contract on the date annuity payments are to begin may not be less than the minimum nonforfeiture amount for that contract on that date as computed under Subchapter B.

(b) The present value of the paid-up annuity benefit shall be computed using the mortality table, if any, and the interest rate specified in the contract for computing the minimum paid-up annuity benefit guaranteed by the contract. (V.T.I.C. Art. 3.44b, Sec. 3.)

Source Law

Sec. 3. Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum non-forfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

Revised Law

Sec. 1107.102. COMPUTATION OF PAID-UP ANNUITY BENEFIT UNDER CERTAIN CONTRACTS. (a) This section applies only to an annuity contract that does not provide a cash surrender benefit.

(b) Subject to Subsection (e), the present value of a paid-up annuity benefit available as a nonforfeiture option before the maturity date may not be less than the present value of the portion of the maturity value of the paid-up annuity benefit provided under the contract that arises from considerations paid on the contract before the date the contract is surrendered in exchange for or is changed to a deferred

paid-up annuity.

(c) The present value of a paid-up annuity benefit under Subsection (b) shall be:

(1) computed for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations paid on the contract to determine the maturity value; and

(2) increased by any additional amount credited by the company to the contract.

(d) Subject to Subsection (e), for an annuity contract that does not provide a death benefit before annuity payments begin, the present value of a paid-up annuity benefit available as a nonforfeiture option shall be computed using the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit.

(e) The present value of a paid-up annuity benefit may not be less than the minimum nonforfeiture amount on the date of surrender or change. (V.T.I.C. Art. 3.44b, Sec. 5.)

Source Law

Sec. 5. For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a non-forfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present values of a paid-up annuity be less than the minimum non-forfeiture amount at that time.

Revised Law

Sec. 1107.103. COMPUTATION OF CASH SURRENDER BENEFIT. (a) Subject to Subsection (c), the value of a cash surrender benefit available under an annuity contract before the maturity date may not be less than the present value on the date the contract is surrendered of the portion of the maturity value of the paid-up annuity benefit that arises from considerations paid under the contract before that date and that would be provided under the

contract at maturity less an amount reflecting any withdrawals from or partial surrenders of the contract before that date and the amount of any indebtedness to the company on the contract, including accrued interest due on the indebtedness, plus any additional amount credited by the company to the contract.

(b) The present value used to compute the minimum cash surrender benefit under Subsection (a) shall be computed using an interest rate that is not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations paid on the contract to determine the maturity value.

(c) The value of a cash surrender benefit may not be less than the minimum nonforfeiture amount on the date the contract is surrendered. (V.T.I.C. Art. 3.44b, Sec. 4 (part).)

Source Law

Sec. 4. For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one per cent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum non-forfeiture amount at that time. . . .

Revised Law

Sec. 1107.104. COMPUTATION OF DEATH BENEFIT. The value of a death benefit available under an annuity contract that provides a cash surrender benefit may not be less than the value of the cash surrender benefit. (V.T.I.C. Art. 3.44b, Sec. 4 (part).)

Source Law

Sec. 4. . . . The death benefit under such contracts shall be at least equal to the cash surrender benefit.

Revised Law

Sec. 1107.105. COMPUTATION OF BENEFITS AVAILABLE AT TIME OTHER THAN CONTRACT ANNIVERSARY. For an annuity contract that requires payment of fixed, scheduled considerations, the value of

a paid-up annuity, cash surrender, or death benefit that is available under the contract on a date other than an anniversary of the contract date shall be computed to allow for the lapse of time and any scheduled considerations paid after the beginning of the contract year in which payment of considerations under the contract ceased. (V.T.I.C. Art. 3.44b, Sec. 8.)

Source Law

Sec. 8. Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of consideration under the contract occurs.

Revised Law

Sec. 1107.106. MINIMUM NONFORFEITURE VALUES UNDER CONTRACT THAT PROVIDES ANNUITY AND LIFE INSURANCE BENEFITS. For a contract that provides, by rider or by supplemental provision, both annuity benefits and life insurance benefits that exceed the greater of the value of the cash surrender benefit or the amount with interest of the gross considerations paid on the contract, the minimum nonforfeiture benefits are equal to the sum of the minimum nonforfeiture benefits for the annuity portion of the contract and the minimum nonforfeiture benefits, if any, for the life insurance portion of the contract, computed as if each portion were a separate contract. (V.T.I.C. Art. 3.44b, Sec. 9 (part).)

Source Law

Sec. 9. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum non-forfeiture benefits shall be equal to the sum of the minimum non-forfeiture benefits for the annuity portion and the minimum non-forfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. . . .

Revised Law

Sec. 1107.107. COMPUTATIONS NOT AFFECTED BY ADDITIONAL BENEFITS. (a) Notwithstanding any other provision of this subchapter or Section 1107.006, a computation of a minimum nonforfeiture amount or of a paid-up annuity, cash surrender, or death benefit under this chapter may not include:

- (1) any additional benefit that is:

(A) payable in the event of total and permanent disability;

(B) payable as a reversionary annuity or deferred reversionary annuity benefit; or

(C) payable as another policy benefit in addition to life insurance, endowment, or annuity benefits; or

(2) the considerations paid for the additional benefit.

(b) A paid-up benefit under an annuity contract is not required to include an additional benefit described by Subsection (a) unless the additional benefit separately requires:

(1) a minimum nonforfeiture amount; or

(2) a paid-up annuity, cash surrender, or death benefit. (V.T.I.C. Art. 3.44b, Sec. 9 (part).)

Source Law

Sec. 9. . . . Notwithstanding the provisions of Sections 3, 4, 5, 6, and 8 of this Article, additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum non-forfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this Article. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum non-forfeiture amounts, paid-up annuity, cash surrender and death benefits.

CHAPTER 1108. BENEFITS EXEMPT FROM SEIZURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1108.001. CONSTRUCTION WITH OTHER LAW 1503

Sec. 1108.002. ANNUITY CONTRACTS 1503

[Sections 1108.003-1108.050 reserved for expansion]

SUBCHAPTER B. EXEMPTIONS FROM SEIZURE

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[Sections 1108.054-1108.100 reserved for expansion]

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CHAPTER 1108. BENEFITS EXEMPT FROM SEIZURE

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1108.001. CONSTRUCTION WITH OTHER LAW. The exemptions under this chapter are in addition to the exemptions from garnishment, attachment, execution, or other seizure under Chapter 42, Property Code. (V.T.I.C. Art. 21.22, Sec. 7.)

Source Law

Sec. 7. The exemptions and protection from seizure under this article are in addition to the exemptions from garnishment, attachment, execution, or other seizure under Chapter 42, Property Code.

Revisor's Note

Section 7, V.T.I.C. Article 21.22, refers to the "exemptions and protection from seizure" provided under the article. The revised law omits the reference to "protection from seizure" because, in context, "protection from seizure" is included within the meaning of "exemptions."

Revised Law

Sec. 1108.002. ANNUITY CONTRACTS. For purposes of regulation under this code, an annuity contract is considered an insurance policy or contract if the annuity contract is issued:

- (1) by a life, health, or accident insurance company, including a mutual company or fraternal benefit society; or
- (2) under an annuity or benefit plan used by an employer or individual. (V.T.I.C. Art. 21.22, Sec. 6.)

Source Law

Sec. 6. For purposes of regulation under this code, an annuity contract issued by a life, health, or accident insurance company, including a mutual company or fraternal company, or under any plan or program of annuities or benefits in use by an employer or individual, shall be considered a policy or contract of insurance.

Revisor's Note

Section 6, V.T.I.C. Article 21.22, refers to a "plan or program" of annuities or benefits. The revised law omits the reference to "program" because, in context, "program" is included within the meaning of "plan." Similar changes have been made throughout the chapter.

[Sections 1108.003-1108.050 reserved for expansion]

SUBCHAPTER B. EXEMPTIONS FROM SEIZURE

Revised Law

Sec. 1108.051. EXEMPTIONS FOR CERTAIN INSURANCE AND ANNUITY BENEFITS. (a) Except as provided by Section 1108.053, this

section applies to any benefits, including the cash value and proceeds of an insurance policy, to be provided to an insured or beneficiary under:

(1) an insurance policy or annuity contract issued by a life, health, or accident insurance company, including a mutual company or fraternal benefit society; or

(2) an annuity or benefit plan used by an employer or individual.

(b) Notwithstanding any other provision of this code, insurance or annuity benefits described by Subsection (a):

(1) inure exclusively to the benefit of the person for whose use and benefit the insurance or annuity is designated in the policy or contract; and

(2) are fully exempt from:

(A) garnishment, attachment, execution, or other seizure;

(B) seizure, appropriation, or application by any legal or equitable process or by operation of law to pay a debt or other liability of an insured or of a beneficiary, either before or after the benefits are provided; and

(C) a demand in a bankruptcy proceeding of the insured or beneficiary. (V.T.I.C. Art. 21.22, Sec. 1.)

Source Law

Art. 21.22

Sec. 1. Notwithstanding any provision of this code other than this article, all money or benefits of any kind, including policy proceeds and cash values, to be paid or rendered to the insured or any beneficiary under any policy of insurance or annuity contract issued by a life, health or accident insurance company, including mutual and fraternal insurance, or under any plan or program of annuities and benefits in use by any employer or individual, shall:

(1) inure exclusively to the benefit of the person for whose use and benefit the insurance or annuity is designated in the policy or contract;

(2) be fully exempt from execution, attachment, garnishment or other process;

(3) be fully exempt from being seized, taken or appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of the insured or of any beneficiary, either before or after said money or benefits is or are paid or rendered; and

(4) be fully exempt from all demands in any bankruptcy proceeding of the insured or beneficiary.

Revisor's Note

(1) Section 1, V.T.I.C. Article 21.22, refers to "money or

benefits." The revised law omits the references to "money" because, in context, "money" is included within the meaning of "benefits." Similar changes have been made throughout the chapter.

(2) Section 1, V.T.I.C. Article 21.22, refers to money or benefits to be "paid or rendered." The revised law substitutes "provided" for "rendered" because "provided" is synonymous with "rendered," and the former is more commonly used. The revised law also omits the reference to "paid" because "paid" is included within the meaning of "provided." Similar changes have been made throughout the chapter.

(3) Section 1, V.T.I.C. Article 21.22, states that certain insurance and annuity benefits are exempt from execution, attachment, garnishment, or "other process." The revised law substitutes "other seizure" for "other process" for consistency with Section 7, V.T.I.C. Article 21.22, revised as Section 1108.001.

(4) Section 1, V.T.I.C. Article 21.22, refers to an exemption for certain insurance benefits from "being seized, taken or appropriated or applied." The revised law omits the reference to "taken" because "taken" is included within the meaning of "appropriated."

Revised Law

Sec. 1108.052. EXEMPTIONS UNAFFECTED BY BENEFICIARY DESIGNATION. The exemptions provided by Section 1108.051 apply regardless of whether:

(1) the power to change the beneficiary is reserved to the insured; or

(2) the insured or the insured's estate is a contingent beneficiary. (V.T.I.C. Art. 21.22, Sec. 2.)

Source Law

Sec. 2. The exemptions provided by Section 1 of this article apply without regard to whether:

(1) the power to change the beneficiary is reserved to the insured; or

(2) the insured or the insured's estate is a contingent beneficiary.

Revised Law

Sec. 1108.053. EXCEPTIONS TO EXEMPTIONS. The exemptions provided by Section 1108.051 do not apply to:

(1) a premium payment made in fraud of a creditor, subject to the applicable statute of limitations for recovering the payment; or

(2) a debt of the insured or beneficiary secured by a pledge of the insurance policy or the proceeds of the policy. (V.T.I.C. Art. 21.22, Sec. 3.)

Source Law

Sec. 3. The exemptions provided by Section 1 of this article do not apply to:

(1) premium payments made in fraud of creditors subject to the applicable statute of limitations for the recovery of the premium payments; or

(2) a debt of the insured or beneficiary secured by a pledge of the policy or its proceeds.

[Sections 1108.054-1108.100 reserved for expansion]

SUBCHAPTER C. ASSIGNMENT OF BENEFITS

Revised Law

Sec. 1108.101. ASSIGNMENT GENERALLY. This chapter does not prevent an insured, owner, or annuitant from assigning, in accordance with the terms of the policy or contract:

(1) any benefits to be provided under an insurance policy or annuity contract to which this chapter applies; or

(2) any other rights under the policy or contract.

(V.T.I.C. Art. 21.22, Sec. 4.)

Source Law

Sec. 4. This article does not prevent the proper assignment of any money or benefits to be paid or rendered under an insurance policy or annuity contract to which this article applies, or any rights under the policy or contract, by the insured, owner, or annuitant in accordance with the terms of the policy or contract.

Revisor's Note

Section 4, V.T.I.C. Article 21.22, refers to the "proper assignment" of certain money or benefits. Section 4 also states that the assignment must be "in accordance with the terms" of an insurance policy or annuity contract. The revised law omits "proper" because, in context, "proper" is included within the meaning of "in accordance with" the policy or contract.

Revised Law

Sec. 1108.102. CERTAIN ASSIGNMENTS VOID. If an insurance policy, annuity contract, or annuity or benefit plan described by Section 1108.051 prohibits a beneficiary from assigning or commuting benefits to be provided or other rights under the policy, contract, or plan, an assignment or commutation or attempted assignment or commutation of the benefits or rights by the beneficiary is void. (V.T.I.C. Art. 21.22, Sec. 5.)

Source Law

Sec. 5. Wherever any policy of insurance, annuity contract,

or plan or program of annuities and benefits mentioned in Section 1 of this article shall contain a provision against assignment or commutation by any beneficiary thereunder of the money or benefits to be paid or rendered thereunder, or any rights therein, any assignment or commutation or any attempted assignment or commutation by such beneficiary of such money or benefits or rights in violation of such provision shall be wholly void.

CHAPTER 1109. UNCLAIMED LIFE INSURANCE AND ANNUITY CONTRACT
PROCEEDS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1109.001. APPLICABILITY OF CHAPTER 1508
Sec. 1109.002. ADMINISTRATION AND ENFORCEMENT; RULES 1511
Sec. 1109.003. APPROPRIATIONS TO ADMINISTER CHAPTER 1511
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SUBCHAPTER B. DELIVERY OF PROCEEDS TO STATE

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CHAPTER 1109. UNCLAIMED LIFE INSURANCE AND ANNUITY CONTRACT
PROCEEDS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1109.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to proceeds held and owing by a life insurance company engaged in the business of insurance in this state if:

(1) the last known address, according to the company's records, of the person entitled to the proceeds is located in this state; and

(2) the proceeds have been unclaimed and unpaid for at least three years after the date, according to the company's records, that the proceeds became due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated.

(b) If a person other than the insured or annuitant is entitled to the proceeds and that person's address is not known to the company or if the identity of the person entitled to the proceeds is not certain from the company's records, it is presumed that the last known address of the person entitled to the proceeds is the same as the last known address of the insured or annuitant according to the company's records.

(c) For purposes of Subsection (a), a life insurance policy not matured by proof of the death of the insured is considered to be matured and the proceeds of the policy are considered to be due and payable only if the policy is in force at the time the insured attained the limiting age under the mortality table on which the reserve is based.

(d) An annuity or other obligation, the payment of which is conditioned on the continued life of any individual, is not considered due and payable for purposes of Subsection (a) without proof that the individual was alive at the time or times required by the contract.

(e) Proceeds otherwise admittedly due and payable under a life or endowment insurance policy or annuity contract that has matured or terminated are considered to be held and owing even if the policy or contract has not been surrendered as required.

(V.T.I.C. Art. 4.08, Secs. 2, 3.)

Source Law

Sec. 2. This Article shall apply to unclaimed funds, as defined in Section 3 hereof, of any life insurance company doing business in this state where the last known address, according to the records of such company, of the person entitled to such funds is within this state, provided that if a person other than the insured or annuitant be entitled to such funds and no address of such person be known to such company or if it be not definite and certain from the records of such company what person is entitled to such funds, then in either event it shall be presumed for the purposes of this Article that the last known address of the person entitled to such funds is the same as the last known address of the insured or annuitant according to the records of such company.

Sec. 3. The term "unclaimed funds" as used in this Article shall mean and include all monies held and owing by any life insurance company doing business in this state which shall have remained unclaimed and unpaid for three years or more after it is established from the records of such company that such monies became due and payable under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of the prior death of the insured shall be deemed to be matured and the proceeds thereof shall be deemed to be "due and payable" within

the meaning of this Article only if such policy is in force when the insured shall have attained the limiting age under the mortality table on which the reserve is based. Annuities and other obligations, the payment of which is conditioned upon the continued life of any person, shall not be deemed to be "due and payable" in the absence of actual proof that such person was alive at the time or times required by the contract. Monies otherwise admittedly due and payable under any such life or endowment insurance policy or annuity contract shall be deemed to be "held and owing" within the meaning of this Article although the policy or contract shall not have been surrendered as required.

Revisor's Note

(1) Section 2, V.T.I.C. Article 4.08, refers to circumstances in which it is not "definite and certain" who is entitled to certain proceeds. The revised law omits the term "definite" because "definite" is included within the meaning of "certain."

(2) Section 3, V.T.I.C. Article 4.08, defines the term "unclaimed funds" for purposes of that article. The revised law incorporates the substance of the definition into the applicability section to avoid the artificial use of the term "unclaimed funds" to refer only to unclaimed proceeds under certain life insurance policies and annuity contracts. In addition, in this section and throughout this chapter, the revised law substitutes the term "proceeds" for "funds" because "proceeds" is the term most frequently used to refer to money due to a beneficiary or annuitant under an insurance policy or annuity contract.

Revised Law

Sec. 1109.002. ADMINISTRATION AND ENFORCEMENT; RULES. (a) This chapter shall be enforced in the manner provided for enforcement of Chapter 74, Property Code, under Subchapter H of that chapter.

(b) The comptroller may adopt rules necessary to administer this chapter. (V.T.I.C. Art. 4.08, Secs. 14, 15.)

Source Law

Sec. 14. This Article shall be enforced in the manner provided for enforcement of Chapter 74, Property Code, under Subchapter H of that chapter.

Sec. 15. The comptroller may adopt rules necessary to carry out this Article.

Revised Law

Sec. 1109.003. APPROPRIATIONS TO ADMINISTER CHAPTER. To enforce and administer this chapter, the legislature may

appropriate unclaimed money received under Chapter 74, Property Code, or under any other statute requiring the delivery of unclaimed property to the comptroller. (V.T.I.C. Art. 4.08, Sec. 9 (part).)

Source Law

Sec. 9. . . . Unclaimed money received under Chapter 74, Property Code, or any other statute requiring the delivery of unclaimed property to the comptroller may be appropriated by the legislature to enforce and administer this Article.

[Sections 1109.004-1109.050 reserved for expansion]

SUBCHAPTER B. DELIVERY OF PROCEEDS TO STATE

Revised Law

Sec. 1109.051. COMPANY REPORT OF UNCLAIMED PROCEEDS. (a) A life insurance company engaged in the business of insurance in this state that on June 30 holds unclaimed proceeds subject to this chapter shall file a report of those proceeds on or before the following November 1. The report shall be filed in writing with the comptroller.

(b) The report is not required to include proceeds that have been paid to another state or other jurisdiction under any law of that state or jurisdiction relating to escheat or unclaimed money.

(c) The report must be signed and sworn to by an officer of the company and must state:

(1) in alphabetical order the full name of the insured or annuitant, the last known address of the insured or annuitant according to the company's records, and the policy or contract number;

(2) the amount due on the policy or contract according to the company's records;

(3) the date the proceeds became payable;

(4) the name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in the proceeds; and

(5) any other identifying information the comptroller requires.

(d) A life insurance company may report individual amounts of less than \$50 in the aggregate without providing the information listed by Subsection (c). (V.T.I.C. Art. 4.08, Secs. 2 (part), 3 (part), 4 (part).)

Source Law

Sec. 2. . . . any life insurance company doing business in this state

Sec. 3. . . . any life insurance company doing business in

this state

Sec. 4. Every such life insurance company shall on or before the first day of November of each year make a report in writing to the comptroller of all unclaimed funds, as hereinbefore defined, held and owing by it on the 30th day of June next preceding, provided, however, such report shall not be required to include amounts which have been paid to another state or jurisdiction under any escheat or unclaimed funds law thereof. Such report shall be signed and sworn to by an officer of such company and shall set forth: (1) in alphabetical order the full name of the insured or annuitant, the last known address according to the company's records, and the policy or contract number; (2) the amount appearing from the company's records to be due on such policy or contract; (3) the date such unclaimed funds became payable; (4) the name and last known address of each beneficiary or other person who, according to the company's records, may have an interest in such unclaimed funds; and (5) such other identifying information as the comptroller may require; provided, however, that individual amounts of less than \$50 may be reported in the aggregate without furnishing any of the information required in Clauses (1), (2), (3), (4), and (5) of this Section. . . .

Revised Law

Sec. 1109.052. DELIVERY OF PROCEEDS TO COMPTROLLER. A life insurance company required to file a report under Section 1109.051 shall deliver to the comptroller with the report all unclaimed proceeds described by the report. (V.T.I.C. Art. 4.08, Sec. 6.)

Source Law

Sec. 6. All unclaimed funds contained in the report required to be filed by Section 4 of this Article shall be delivered to the comptroller on or before November 1 with the report.

Revised Law

Sec. 1109.053. RETENTION OF RECORDS BY INSURANCE COMPANY. (a) A life insurance company required to file a report under Section 1109.051 shall maintain a record of:

- (1) the name and last known address, if any, of the insured, annuitant, or beneficiary;
- (2) the policy or contract number; and
- (3) the amount of the proceeds due on the policy or contract according to the company's records.

(b) The company shall maintain the record until at least the 10th anniversary of the date the proceeds are required to be reported, regardless of whether the amount was reported in the aggregate. The comptroller by rule may provide for a shorter

retention period for the record. (V.T.I.C. Art. 4.08, Sec. 4 (part).)

Source Law

Sec. 4. . . . Each life insurance company required to file a report under this Section shall maintain a record of the name and last known address, if any, of the insured, annuitant, or beneficiary, the policy or contract number, and the amount appearing from the company's records to be due on the policy or contract for 10 years after the funds are reportable, whether or not the amount was reported in the aggregate under this Section. The comptroller may provide by rule for a shorter holding period for these records.

Revised Law

Sec. 1109.054. PUBLIC RECORD OF RECEIPT OF PROCEEDS. (a) The comptroller shall maintain in the comptroller's office a public record of each delivery of unclaimed proceeds received under this chapter.

(b) Except as to amounts reported in the aggregate, the record must include:

(1) in alphabetical order, the name and last known address of each insured or annuitant and of each beneficiary or other person who, according to the life insurance company's reports, may have an interest in the proceeds; and

(2) with respect to each policy or contract, the policy or contract number, the name of the company, and the amount of the unclaimed proceeds. (V.T.I.C. Art. 4.08, Sec. 12.)

Source Law

Sec. 12. The comptroller shall keep in his office a public record of each payment of unclaimed funds received by him from any life insurance company. Except as to amounts reported in the aggregate, such record shall show in alphabetical order the name and last known address of each insured or annuitant, and of each beneficiary or other person who, according to the company's reports, may have an interest in such unclaimed funds, and with respect to each policy or contract, its number, the name of the company, and the amount due.

Revised Law

Sec. 1109.055. STATE RESPONSIBILITY FOR PROCEEDS; INDEMNIFICATION OF COMPANY. (a) On the delivery of unclaimed proceeds under this chapter:

(1) the state assumes custody of the proceeds for the benefit of each person entitled to receive the proceeds and for the safekeeping of the proceeds; and

(2) the life insurance company is relieved of and held

harmless by the state from any liability relating to the proceeds for a claim existing at the time of delivery of the proceeds to the comptroller or that arises or is made after delivery of the proceeds.

(b) A life insurance company that delivers proceeds to the comptroller under this chapter in good faith is relieved of liability relating to the proceeds to the extent of the value of the proceeds delivered for a claim existing at the time of delivery or that arises or is made after delivery.

(c) If a life insurance company delivers unclaimed proceeds to the comptroller under this chapter in good faith and, after delivery, a person claims the proceeds from the life insurance company or another state claims the proceeds under its laws relating to escheat or unclaimed property, the attorney general shall, on written notice of the claim, defend the life insurance company against the claim. The life insurance company shall be indemnified against liability on the claim from the unclaimed money received under Chapter 74, Property Code, or under any other statute requiring delivery of unclaimed property to the comptroller. (V.T.I.C. Art. 4.08, Secs. 7, 8.)

Source Law

Sec. 7. Upon the payment of such unclaimed funds to the comptroller the state shall assume, for the benefit of those entitled to receive the same and for the safety of the money so paid, the custody of such unclaimed funds, and the life insurance company making such payment shall immediately and thereafter be relieved of and held harmless by the state from any and all liability for any claim or claims which exist at such time with reference to such unclaimed funds or which thereafter may be made or may come into existence on account of or in respect to any such unclaimed funds.

Sec. 8. (a) Any life insurance company which in good faith has paid monies to the comptroller pursuant to this Article is relieved of all liability for a claim that exists at the time of delivery, that arises after delivery to the comptroller, or that is made with respect to the property, to the extent of the value of the property delivered.

(b) If a life insurance company in good faith delivers property to the comptroller and after delivery a person claims the property from the life insurance company or another state claims the property under its laws relating to escheat or unclaimed property, the attorney general shall, on written notice of the claim, defend the life insurance company against the claim. The life insurance company shall be indemnified from the unclaimed money received under Chapter 74, Property Code, or any other statute requiring the delivery of unclaimed property to the comptroller, against any liability on the claim.

Revised Law

Sec. 1109.056. EXAMINATION OF COMPANY RECORDS. (a) The comptroller may examine the records of a life insurance company to determine if the company is complying with this chapter.

(b) The comptroller may not make public any information obtained from an examination made under this section. (V.T.I.C. Art. 4.08, Sec. 16.)

Source Law

Sec. 16. The comptroller may examine the records of a life insurance company to determine if the life insurance company is complying with this Article. The comptroller may not make public any information obtained by an examination made under this Section.

Revisor's Note

(End of Subchapter)

Section 9, V.T.I.C. Article 4.08, provides that the comptroller shall deposit unclaimed proceeds delivered to the comptroller under that article in the general revenue fund. The revised law omits that provision because it is unnecessary. Section 74.601(b), Property Code, requires all unclaimed money delivered to the comptroller under any statute requiring the delivery of unclaimed property to the comptroller to be deposited to the credit of the general revenue fund. The omitted law reads:

Sec. 9. Upon receipt of any unclaimed funds from such life insurance companies, the comptroller shall deposit those funds in the general revenue fund. . . .

[Sections 1109.057-1109.100 reserved for expansion]

SUBCHAPTER C. PUBLIC NOTICE

Revised Law

Sec. 1109.101. PUBLIC NOTICE OF UNCLAIMED PROCEEDS. (a) In the calendar year following the year in which a report required by Section 1109.051 is made and in which the unclaimed proceeds described in the report are delivered to the comptroller under Section 1109.052, the comptroller may publish notice based on the information contained in the report. Except as provided by Subsection (d), the comptroller shall publish the notice once in a newspaper published or having a general circulation in each county of this state in which the last known address of a person appearing to be entitled to any of those proceeds is located.

(b) The notice must:

(1) state in alphabetical order the name of each insured or annuitant under the policies or contracts and the municipality of the insured's or annuitant's last known address, if any; and

(2) state that the unclaimed proceeds have been delivered to the comptroller as of the preceding November 1 and may be claimed from the comptroller.

(c) The publication requirements under Subchapter C, Chapter 74, Property Code, apply to publication of notice under this section.

(d) The comptroller may use a method of publishing notice different from that prescribed by Subsection (a) if the comptroller determines that the different method would be as likely to give actual notice to the person required to be named in the notice as the method prescribed by Subsection (a).

(V.T.I.C. Art. 4.08, Sec. 5.)

Source Law

Sec. 5. (a) In the calendar year following the submission of the reports required under Section 4 of this Article and the payment to the comptroller under Section 6 of this Article of all unclaimed funds described in the report, the comptroller may cause to be published notices based on the information contained in such reports. Except as provided by Subsection (d) of this Section, such a notice shall be published once in a newspaper published or having a general circulation in each county of this state in which is located the last known address of a person appearing to be entitled to such funds.

(b) Each such notice shall set forth in alphabetical order the names of the insureds or annuitants under policies or contracts and the city of last known address, if any. The notice shall also state that such unclaimed funds have been delivered to the comptroller on the preceding November 1 and that those funds may be claimed from the comptroller.

(c) The publication requirements under Subchapter C, Chapter 74, Property Code, apply to publication of notice under this section.

(d) The comptroller may use a method of publishing notice that is different from that prescribed by Subsection (a) of this Section if the comptroller determines that the different method would be as likely as the prescribed method to give actual notice to the person required to be named in the notice.

Revisor's Note

Section 5(b), V.T.I.C. Article 4.08, refers to a "city." The revised law substitutes the term "municipality" for "city" because that is the term used in the Local Government Code.

[Sections 1109.102-1109.150 reserved for expansion]

SUBCHAPTER D. CLAIMS FOR PROCEEDS

Revised Law

Sec. 1109.151. FILING OF CLAIM. A person claiming to be entitled to unclaimed proceeds delivered to the comptroller under this chapter may at any time file a claim for the proceeds with the comptroller. (V.T.I.C. Art. 4.08, Sec. 10 (part).)

Source Law

Sec. 10. Any person claiming to be entitled to unclaimed funds paid to the comptroller may file a claim at any time with such official. . . .

Revised Law

Sec. 1109.152. DETERMINATION OF CLAIM. The comptroller may accept or reject a claim made under Section 1109.151. (V.T.I.C. Art. 4.08, Sec. 10 (part).)

Source Law

Sec. 10. . . . The comptroller shall possess full and complete authority to accept or reject any such claim. . . .

Revised Law

Sec. 1109.153. APPEAL. (a) If the comptroller rejects a claim made under Section 1109.151 or does not act on a claim before the 91st day after the date the claim is filed, the claimant may file suit to recover the proceeds.

(b) The comptroller is the defendant in a suit filed under this section. (V.T.I.C. Art. 4.08, Sec. 10 (part).)

Source Law

Sec. 10. . . . If he rejects such claim or fails to act thereon within ninety days after receipt of such claim, the claimant may institute suit therefor in a court of competent jurisdiction naming the comptroller as defendant.

Revisor's Note

Section 10, V.T.I.C. Article 4.08, refers to a suit brought "in a court of competent jurisdiction." The revised law omits the quoted language as unnecessary because a suit may only be brought in a court, and the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. For example, see Sections 24.007-24.011, Government Code, for the general jurisdiction of district courts.

Revised Law

Sec. 1109.154. PAYMENT OF CLAIM. The comptroller shall pay from unclaimed money received under Chapter 74, Property Code, or under any other statute requiring the delivery of unclaimed property to the comptroller, a claim that:

- (1) the comptroller accepts; or
- (2) a court orders the comptroller to pay. (V.T.I.C. Art. 4.08, Sec. 11.)

Source Law

Sec. 11. Any claim which is accepted by the comptroller or ordered to be paid by him by a court of competent jurisdiction shall be paid out of the unclaimed money received under Chapter 74, Property Code, or any other statute requiring the delivery of unclaimed property to the comptroller.

Revisor's Note

Section 11, V.T.I.C. Article 4.08, refers to a court "of competent jurisdiction." The revised law omits the quoted language as unnecessary because the general laws of civil jurisdiction determine which courts have jurisdiction over the matter. See the revisor's note to Section 1109.153.

Revisor's Note

(End of Chapter)

Section 1, V.T.I.C. Article 4.08, provides a short title for that article. The revised law omits the short title because Article 4.08 is not a statute of wide application that is frequently referred to by its short title, and the heading to this chapter of the revised law is sufficient to describe the revised law to the reader. The omitted law reads:

Art. 4.08

Sec. 1. This Article shall be known as
the "Unclaimed Funds Statute for Life
Insurance Companies."

CHAPTER 1110. INTEREST RATES ON CERTAIN POLICY LOANS

- Sec. 1110.001. DEFINITIONS 1520
- Sec. 1110.002. APPLICABILITY OF CHAPTER 1521
- Sec. 1110.003. APPLICABILITY OF OTHER LAW 1521
- Sec. 1110.004. MAXIMUM INTEREST RATE ON POLICY LOANS 1522
- Sec. 1110.005. FREQUENCY OF ADJUSTABLE INTEREST RATE
DETERMINATION 1524
- Sec. 1110.006. INFORMATION TO BE INCLUDED IN POLICY 1524
- Sec. 1110.007. NOTICE TO POLICYHOLDER 1525
- Sec. 1110.008. LOAN VALUE OF POLICY; TERMINATION OF POLICY
BASED ON CHANGE IN INTEREST RATE 1526

CHAPTER 1110. INTEREST RATES ON CERTAIN POLICY LOANS

Revised Law

Sec. 1110.001. DEFINITIONS. In this chapter:

- (1) "Life insurance policy" includes:
 - (A) a benefit certificate issued by a fraternal benefit society; or

(B) an annuity contract that provides for a policy loan.

(2) "Policy loan" includes any premium loan made under a life insurance policy to pay one or more premiums not paid to the life insurer when due. (V.T.I.C. Art. 3.44c, Sec. 3(h) (part).)

Source Law

(h) For purposes of this section:

. . .

(2) The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

. . .

(4) The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

Revisor's Note

(1) Section 3(h)(4), V.T.I.C. Article 3.44c, defines the term "policy," and Article 3.44c uses that term throughout. It is clear from the context of Article 3.44c that Article 3.44c applies only to life insurance policies, including the certificates and annuity contracts listed by Section 3(h)(4), and not to other forms of insurance. Accordingly, throughout this chapter the term "life insurance policy" is substituted for the term "policy."

(2) Section 3(h)(4), V.T.I.C. Article 3.44c, refers to "certificates" issued by fraternal benefit societies. The revised law substitutes "benefit certificates" for "certificates" because that is the term used in Chapter 885 of the revised law which codifies the law relating to fraternal benefit societies.

Revised Law

Sec. 1110.002. APPLICABILITY OF CHAPTER. This chapter applies only to a life insurance policy issued on or after August 31, 1981. (V.T.I.C. Art. 3.44c, Secs. 3(a) (part), 4.)

Source Law

Sec. 3. (a) Policies issued on or after the effective date of this Act [shall provide for policy loan interest rates as follows:]

Sec. 4. The provisions of this Act shall not apply to any insurance contract issued before the effective date of this Act.

Revisor's Note

Sections 3(a) and 4, V.T.I.C. Article 3.44c, refer to "the effective date of this Act." Article 3.44c was added by Chapter

784, Acts of the 67th Legislature, Regular Session, 1981. The revised law substitutes August 31, 1981, the effective date of that act, for the quoted language.

Revised Law

Sec. 1110.003. APPLICABILITY OF OTHER LAW. A law not included in this chapter applies to interest rates on policy loans only if that law is made specifically applicable to those rates. (V.T.I.C. Art. 3.44c, Sec. 3(i).)

Source Law

(i) No other provision of law shall apply to policy loan interest rates unless made specifically applicable to such rates.

Revised Law

Sec. 1110.004. MAXIMUM INTEREST RATE ON POLICY LOANS. (a) In this section, "published monthly average" means:

(1) Moody's Corporate Bond Yield Average--Monthly Average Corporates as published by Moody's Investors Service, Inc., or a successor to that corporation; or

(2) if the rate described by Subdivision (1) is no longer published, a substantially similar average established by rule of the commissioner.

(b) A life insurance policy must include a provision for an interest rate on a policy loan that:

(1) does not exceed 10 percent a year; or

(2) is an adjustable maximum interest rate established from time to time by the life insurer as permitted by law and does not exceed the lesser of:

(A) 15 percent a year; or

(B) the greater of:

(i) the published monthly average for the calendar month that ended two months before the date on which the rate is determined; or

(ii) the rate used to compute the cash surrender values under the life insurance policy during the applicable period plus one percent per year.

(c) This section also applies to the interest rate charged, on reinstatement of a policy loan, for the period during and after a lapse of the life insurance policy. (V.T.I.C. Art. 3.44c, Secs. 2; 3(a) (part), (b), (h) (part).)

Source Law

Sec. 2. For purposes of this Act the "published monthly average" means:

(1) Moody's Corporate Bond Yield Average--Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto; or

(2) In the event that Moody's Corporate Bond Yield

Average--Monthly Average Corporates is no longer published, a substantially similar average, established by regulation issued by the State Board of Insurance.

Sec. 3. (a) [Policies issued on or after the effective date of this Act] shall provide for policy loan interest rates as follows:

(1) a provision permitting a maximum interest rate of not more than 10 percent per annum; or

(2) a provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by law; provided, however, the maximum interest rate permitted in this subdivision shall not exceed 15 percent per annum.

(b) The rate of interest charged on a policy loan made under Subdivision (2) of Subsection (a) of this section shall not exceed the higher of the following:

(1) the published monthly average for the calendar month ending two months before the date on which the rate is determined; or

(2) the rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

(h) For purposes of this section:

(1) The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy. . . .

Revisor's Note

Section 2, V.T.I.C. Article 3.44c, refers to a "regulation issued by the State Board of Insurance." The revised law substitutes "rule" for "regulation" because, in this context, the terms are synonymous and because under Section 311.005(5), Government Code (Code Construction Act), a rule is defined to include a regulation. That definition applies to the revised law. The revised law substitutes "commissioner," which is defined by Section 31.001, Insurance Code, to mean the commissioner of insurance, for "State Board of Insurance" because Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the board and transferred its functions to the commissioner of insurance and the Texas Department of Insurance, as appropriate. Under Subchapter A, Chapter 36, Insurance Code, the commissioner exercises rulemaking authority for the department.

Revised Law

Sec. 1110.005. FREQUENCY OF ADJUSTABLE INTEREST RATE DETERMINATION. A life insurer shall determine the adjustable interest rate under Section 1110.004(b)(2) at regular intervals

at least once every 12 months but not more frequently than once in any three-month period. At the intervals specified in the life insurance policy, the insurer:

(1) may increase the rate charged when the interest rate determined under Section 1110.004(b)(2) would result in a rate increase of at least one-half of one percent per year; and

(2) shall reduce the rate charged when the interest rate determined under Section 1110.004(b)(2) would result in a rate decrease of at least one-half of one percent per year.

(V.T.I.C. Art. 3.44c, Sec. 3(d).)

Source Law

(d) The maximum rate for each policy must be determined at regular intervals at least once every 12 months but not more frequently than once in any three-month period. At the intervals specified in the policy:

(1) the rate being charged may be increased whenever such increase as determined under Subsection (b) of this section would increase that rate by one-half percent or more per annum;

(2) the rate being charged must be reduced whenever such reduction as determined under Subsection (b) of this section would decrease that rate by one-half percent or more per annum.

Revised Law

Sec. 1110.006. INFORMATION TO BE INCLUDED IN POLICY. (a) A life insurance policy must include the substance of the provisions of Section 1110.004(b) that are applicable to the policy.

(b) A life insurance policy that provides for an adjustable interest rate under Section 1110.004(b)(2) must state the frequency at which the rate is to be determined. (V.T.I.C. Art. 3.44c, Secs. 3(c), (g).)

Source Law

(c) If the maximum rate of interest is determined pursuant to subdivision (2) of Subsection (a) of this section, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(g) The substance of the pertinent provisions of Subsections (a) and (c) of this section shall be set forth in the policies to which they apply.

Revised Law

Sec. 1110.007. NOTICE TO POLICYHOLDER. (a) In this section, "policyholder" includes the owner of a life insurance policy or the person designated to pay premiums as shown on the records of the life insurer.

(b) For a cash loan on a life insurance policy, the life insurer shall notify the policyholder of the initial interest rate on the loan at the time the insurer makes the loan.

(c) For a premium loan on a life insurance policy, the life insurer shall notify the policyholder of the initial interest rate on the loan as soon as reasonably practical after making the loan. Except as provided by Subsection (d), subsequent notice is not required to be given when the insurer makes an additional premium loan on the policy.

(d) At least 30 days before an increase in the interest rate on a policy loan, the life insurer shall send a notice of the rate increase to the policyholder.

(e) The life insurer shall include in a notice required by this section the substance of the provisions of Section 1110.004(b) applicable to the policy. For a policy loan with an adjustable interest rate, the notice must state the frequency at which the rate is to be determined. (V.T.I.C. Art. 3.44c, Secs. 3(e), (h) (part).)

Source Law

(e) The life insurer shall:

(1) notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;

(2) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan; notice need not be given to the policyholder when a further premium loan is added, except as provided in Subdivision (3) below;

(3) send to policyholders with loans 30 days advance notice of any increase in the rate; and

(4) include in the notices required above the substance of the pertinent provisions of Subsections (a) and (c) of this section.

(h) For purposes of this section:

. . .

(3) The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer. . . .

Revised Law

Sec. 1110.008. LOAN VALUE OF POLICY; TERMINATION OF POLICY BASED ON CHANGE IN INTEREST RATE. (a) The loan value of a life insurance policy shall be determined in accordance with Section 1101.009.

(b) A life insurance policy may not be terminated in a policy year solely as the result of a change in the policy loan

interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which coverage would otherwise have terminated if there had been no change in the interest rate. (V.T.I.C. Art. 3.44c, Sec. 3(f).)

Source Law

(f) The loan value of the policy shall be determined in accordance with Section 6 of Article 3.44 of this code, but no policy shall terminate in a policy year as the sole result of change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

Revisor's Note

(End of Chapter)

Section 1, V.T.I.C. Article 3.44c, states the purpose of the article. The revised law omits Section 1 as unnecessary because the provision is nonsubstantive and because the legislative purpose in enacting the article is clear from the substantive provisions of the article revised in the chapter. The omitted law reads:

Art. 3.44c

Sec. 1. The purpose of this Act is to permit and set guidelines for life insurers to include in life insurance policies issued after the effective date of this Act a provision for periodic adjustment of policy loan interest rates.

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ACCELERATED TERM LIFE INSURANCE BENEFITS

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CHAPTER 1111. LIFE AND VIATICAL SETTLEMENTS AND
ACCELERATED TERM LIFE INSURANCE BENEFITS
SUBCHAPTER A. LIFE AND VIATICAL SETTLEMENTS

Revised Law

Sec. 1111.001. DEFINITIONS. In this subchapter:

(1) "Life settlement" means an agreement that is solicited, negotiated, offered, entered into, delivered, or issued for delivery in this state under which a person pays anything of value that is:

(A) less than the expected death benefit of a policy insuring the life of an individual who does not have a catastrophic or life-threatening illness or condition; and

(B) paid in return for the policy owner's or certificate holder's assignment, transfer, bequest, devise, or sale of the death benefit under or ownership of the policy.

(2) "Person" means an individual, corporation, trust, partnership, association, or any other legal entity.

(3) "Viatical settlement" means an agreement that is solicited, negotiated, offered, entered into, delivered, or issued for delivery in this state under which a person pays anything of value that is:

(A) less than the expected death benefit of a policy insuring the life of an individual who has a catastrophic or life-threatening illness or condition; and

(B) paid in return for the policy owner's or certificate holder's assignment, transfer, bequest, devise, or sale of the death benefit under or ownership of the policy.

(V.T.I.C. Art. 3.50-6A, Sec. 1.)

Source Law

Art. 3.50-6A

Sec. 1. In this article:

(1) "Person" means an individual, corporation, trust, partnership, association, or any other legal entity.

(2) "Viatical settlement" means an agreement that is solicited, negotiated, offered, entered into, delivered, or issued for delivery in this state under which a person pays compensation or anything of value that is less than the expected death benefit of a policy insuring the life of an individual who has a catastrophic or life-threatening illness or condition in return for the policy owner's or certificate holder's assignment, transfer, sale, devise, or bequest of the death benefit under or ownership of the policy.

(3) "Life settlement" means an agreement that is solicited, negotiated, offered, entered into, delivered, or issued for delivery in this state under which a person pays compensation or anything of value that is less than the expected death benefit of a policy insuring the life of an individual who

does not have a catastrophic or life-threatening illness or condition in return for the policy owner's or certificate holder's assignment, transfer, sale, devise, or bequest of the death benefit under or ownership of the policy.

Revisor's Note

Sections 1(2) and (3), V.T.I.C. Article 3.50-6A, refer to "compensation or anything of value." The revised law omits the references to "compensation" because that concept is included in the meaning of "anything of value."

Revised Law

Sec. 1111.002. PURPOSE. The purpose of this subchapter is to:

(1) provide for registration of persons engaged in the business of life or viatical settlements; and

(2) provide consumer protection for a person who may sell or otherwise transfer the person's life insurance policy. (V.T.I.C. Art. 3.50-6A, Sec. 2(a).)

Source Law

Sec. 2. (a) The purpose of this article is to register persons engaged in the business of viatical settlements or the business of life settlements and to provide consumer protection for a person who may sell or otherwise transfer the person's life insurance policy.

Revised Law

Sec. 1111.003. RULES; REGISTRATION AND REGULATION. (a) To implement this subchapter, the commissioner shall adopt reasonable rules relating to life settlements and relating to viatical settlements.

(b) The rules adopted by the commissioner under this section must include rules governing:

(1) registration of a person engaged in the business of life settlements;

(2) registration of a person engaged in the business of viatical settlements;

(3) approval of contract forms;

(4) disclosure requirements;

(5) prohibited practices relating to:

(A) unfair discrimination in the provision of life or viatical settlements; and

(B) referral fees paid by persons engaged in the business of life or viatical settlements;

(6) assignment or resale of life insurance policies;

(7) maintenance of appropriate confidentiality of personal and medical information; and

(8) the responsibility of a registrant to ensure

compliance with this subchapter and rules relating to life or viatical settlements after the registration is revoked, suspended, or otherwise lapses.

(c) The commissioner may not adopt a rule establishing a price or fee for the sale or purchase of a life settlement. This subsection does not prohibit the commissioner from adopting a rule relating to an unjust price or fee for the sale or purchase of a life settlement.

(d) The commissioner may not adopt a rule that regulates the actions of an investor providing money to a life or viatical settlement company. (V.T.I.C. Art. 3.50-6A, Secs. 2(b), (c), (e), (f).)

Source Law

(b) The commissioner shall adopt reasonable rules to implement this article as it relates to viatical settlements and as it relates to life settlements.

(c) The rules adopted by the commissioner under this article must include rules governing:

(1) registration of a person engaged in the business of viatical settlements;

(2) registration of a person engaged in the business of life settlements;

(3) approval of contract forms;

(4) disclosure requirements;

(5) prohibited practices relating to:

(A) unfair discrimination in the provision of viatical settlements or life settlements; and

(B) referral fees paid by persons engaged in the business of viatical settlements or life settlements;

(6) the assignment or resale of life insurance policies;

(7) the maintenance of appropriate confidentiality of personal and medical information; and

(8) the responsibility of a registrant to ensure compliance with this article and rules relating to viatical settlements or life settlements after the registration is revoked, is suspended, or otherwise lapses.

(e) The commissioner may not adopt rules establishing prices or fees for the sale or purchase of life settlements. This subsection does not prohibit the commissioner from adopting rules addressing unjust prices or fees for the sale or purchase of life settlements.

(f) The commissioner may not adopt rules that require the regulation of the actions of an investor providing funds to a viatical or life settlement company.

Revisor's Note

Section 2(f), V.T.I.C. Article 3.50-6A, refers to "funds." The revised law substitutes "money" for "funds" for consistency with other recent codes and to reflect modern drafting style.

Revised Law

Sec. 1111.004. ANNUAL FEE FOR REGISTRATION. The commissioner may adopt rules requiring payment of an annual fee in connection with registration. The fee may not exceed \$250. (V.T.I.C. Art. 3.50-6A, Sec. 2(d).)

Source Law

(d) The commissioner may adopt rules requiring payment of an annual fee in connection with registration. The fee may not exceed \$250.

Revised Law

Sec. 1111.005. DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION; ENFORCEMENT. (a) The commissioner may suspend or revoke a registration or deny an application for registration if the commissioner determines that the registrant or applicant, individually or through any officer, director, or shareholder of the registrant or applicant:

- (1) wilfully violated:
 - (A) this subchapter;
 - (B) an applicable provision of this code or another insurance law of this state; or
 - (C) a rule adopted under a law described by Paragraph (A) or (B);
- (2) intentionally made a material misstatement in the application for registration;
- (3) obtained or attempted to obtain registration by fraud or misrepresentation;
- (4) misappropriated, converted to the registrant's or applicant's own use, or illegally withheld money belonging to a party to a life or viatical settlement;
- (5) was guilty of fraudulent or dishonest practices;
- (6) materially misrepresented the terms of business conducted under this subchapter or any other provision of this code or another insurance law of this state;
- (7) made or issued, or caused to be made or issued, a statement materially misrepresenting or making incomplete comparisons regarding the material terms of any business conducted under this subchapter; or
- (8) was convicted of a felony or was convicted of a misdemeanor involving moral turpitude or fraud.

(b) An applicant or registrant whose registration has been denied, suspended, or revoked under this section may not file another application for registration before the first anniversary

of the effective date of the denial, suspension, or revocation or, if judicial review of the denial, suspension, or revocation is sought, the first anniversary of the date of the final court order or decree affirming the action. The commissioner may deny an application filed after that period unless the applicant shows good cause why the denial, suspension, or revocation of the previous registration should not bar the issuance of a new registration.

(c) In addition to an action taken against a person under Subsection (a) or (b), the commissioner may take against the person any action that the commissioner may take against a person engaged in the business of insurance who violates a statute or rule. (V.T.I.C. Art. 3.50-6A, Sec. 4.)

Source Law

Sec. 4. (a) The commissioner may suspend or revoke the registration of a registrant or deny an application for registration under this article if the commissioner finds that the registrant or applicant, individually or through any officer, director, or shareholder of the registrant or applicant:

(1) wilfully violates this article, an applicable provision of this code or another insurance law of this state, or a rule adopted under this article or under such a provision;

(2) intentionally makes a material misstatement in the application for registration under this article;

(3) obtains, or attempts to obtain, registration under this article by fraud or misrepresentation;

(4) misappropriates, converts to the registrant's or applicant's own use, or illegally withholds money belonging to a party to a viatical settlement or life settlement;

(5) is guilty of fraudulent or dishonest practices;

(6) materially misrepresents the terms and conditions of business conducted under this article or any other provision of this code or other insurance laws of this state;

(7) makes or issues, or causes to be made or issued, a statement materially misrepresenting or making incomplete comparisons regarding the material terms or material conditions of any business conducted under this article; or

(8) is convicted of a misdemeanor involving moral turpitude or criminal fraud or a felony.

(b) An applicant or registrant whose registration has been denied, suspended, or revoked under this section may not file another application for registration before the first anniversary of the effective date of the denial, suspension, or revocation or, if judicial review of the denial, suspension, or revocation is sought, the first anniversary of the date of the final court order or decree affirming the action. An application filed after that period may be denied by the commissioner unless the

applicant shows good cause why the denial, suspension, or revocation of the previous license should not bar the issuance of a new license.

(c) In addition to an action taken under Subsections (a) and (b) of this section, the commissioner may take against a person engaged in the business of viatical settlements or life settlements who violates this article, an applicable provision of this code or another insurance law of this state, or a rule adopted under this article or under such a provision any action that the commissioner may take against a person engaged in the business of insurance who violates a statute or rule.

Revisor's Note

(1) Section 4(a)(6), V.T.I.C. Article 3.50-6A, refers to "terms and conditions" and Section 4(a)(7), V.T.I.C. Article 3.50-6A, refers to "material terms or material conditions." The revised law omits the references to "conditions" because the meaning of "conditions" is included in the meaning of "terms."

(2) Section 4(b), V.T.I.C. Article 3.50-6A, in the last sentence, twice refers to a "license." The previous sentence, however, refers to a "registrant" or an applicant for "registration" rather than a "license holder" or applicant for a "license." In addition, the word "license" does not appear elsewhere in Article 3.50-6A. Instead, "registration" is consistently used. The revised law is drafted accordingly.

Revised Law

Sec. 1111.006. APPLICABILITY OF OTHER INSURANCE LAWS. The following laws apply to a person engaged in the business of life or viatical settlements:

- (1) Articles 1.10, 1.10D, 1.19, and 21.21;
- (2) Chapters 82, 83, and 84;
- (3) Sections 31.002, 32.001, 32.002, 32.003, 32.021, 32.023, 32.041, 38.001, 81.004, 801.056, and 862.052; and
- (4) Subchapter C, Chapter 36. (V.T.I.C. Art. 3.50-6A, Sec. 3.)

Source Law

Sec. 3. Articles 1.10, 1.10A, 1.10C, 1.10D, 1.10E, 1.19, 1.19-1, 1.24, and 21.21 of this code apply to a person engaged in the business of viatical settlements or life settlements.

Revisor's Note

Section 3, V.T.I.C. Article 3.50-6A, refers to V.T.I.C. Article 1.10. That statute is codified in part in this code as Chapter 82 and as certain sections in Chapters 31, 32, 81, 822, 841, and 862; the rest of the statute remains in Article 1.10. The revised law is drafted accordingly.

[Sections 1111.007-1111.050 reserved for expansion]

SUBCHAPTER B. ACCELERATED TERM LIFE INSURANCE BENEFITS

Revised Law

Sec. 1111.051. DEFINITIONS. In this subchapter:

(1) "Accelerated benefit" means a benefit paid to an insured instead of a portion of a death benefit.

(2) "Death benefit" means a benefit payable to a beneficiary on the death of an insured.

(3) "Long-term care illness" means an illness or physical condition that results in the inability to perform the activities of daily life or the substantial and material duties of any occupation.

(4) "Terminal illness" means an illness or physical condition, including a physical injury, that can reasonably be expected to result in death within not more than two years. (V.T.I.C. Art. 3.50-6, Secs. (a)(1), (2), (3), (5).)

Source Law

Art. 3.50-6. (a) In this article:

(1) "Accelerated benefit" means a benefit paid to an insured in lieu of a portion of a death benefit.

(2) "Death benefit" means a benefit payable to a beneficiary on the death of an insured.

(3) "Long-term care illness" means an illness or physical condition that results in the inability to perform the activities of daily life or the substantial and material duties of any occupation.

(5) "Terminal illness" means an illness or physical condition, including a physical injury, that can reasonably be expected to result in death in two years or less.

Revised Law

Sec. 1111.052. AUTHORITY TO PAY ACCELERATED TERM LIFE BENEFITS. An insurer may pay an accelerated benefit under an individual or group term life insurance policy or certificate if:

(1) the insurer has received a written medical opinion, satisfactory to the insurer, that the insured has:

(A) a terminal illness;

(B) a long-term care illness; or

(C) an illness or physical condition that is likely to cause permanent disability or premature death, including:

(i) acquired immune deficiency syndrome (AIDS);

(ii) a malignant tumor;

(iii) a condition that requires an organ transplant; or

(iv) a coronary artery disease that results

in acute infraction or requires surgery; and

(2) the amount of the accelerated benefit is deducted from:

(A) the amount of the death benefit payable under the policy or certificate; and

(B) any amount the insured would otherwise be entitled to convert to an individual contract. (V.T.I.C. Art. 3.50-6, Secs. (a)(4), (b).)

Source Law

(a) In this article:

. . .

(4) "Specified disease" means an illness or physical condition that is likely to cause permanent disability or premature death, including the following:

(A) acquired immunodeficiency syndrome (AIDS);

(B) a malignant tumor;

(C) a condition that requires an organ transplant; and

(D) a coronary artery disease that results in acute infarction or requires surgery.

(b) An insurance company may pay an accelerated benefit under an individual or group term life insurance policy or certificate if:

(1) the company has received a written medical opinion, satisfactory to the company, that the insured has a terminal illness, a long-term care illness, or a specified disease; and

(2) the amount of the accelerated benefit is deducted from the amount of the death benefit payable under the policy or certificate and from any amount the insured would otherwise be entitled to convert to an individual contract.

Revised Law

Sec. 1111.053. RULES. The commissioner may adopt rules to implement this subchapter. (V.T.I.C. Art. 3.50-6, Sec. (c).)

Source Law

(c) The commissioner may adopt rules to implement this article.

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CHAPTER 1131. GROUP LIFE INSURANCE AND WHOLESALE,
FRANCHISE, OR EMPLOYEE LIFE INSURANCE
SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 1131.001. DEFINITION. In this chapter, "wholesale, franchise, or employee life insurance" means a term life insurance plan under which a number of individual term life insurance policies are issued to a selected group at a rate that is lower than the rate shown in the issuing insurer's manual for an individually issued policy of the same type issued to an insured of the same class. (V.T.I.C. Art. 3.50, Sec. 1(7)(a).)

Source Law

Art. 3.50

Sec. 1. . . .

(7) . . .

(a) Wholesale, franchise or employee life insurance is hereby defined as: a term life insurance plan under which a number of individual term life insurance policies are issued at special rates to a selected group. A special rate is

any rate lower than the rate shown in the issuing insurance company's manual for individually issued policies of the same type and to insureds of the same class.

Revised Law

Sec. 1131.002. CERTAIN GROUP LIFE INSURANCE AUTHORIZED. A group life insurance policy may be delivered in this state only if the policy:

- (1) covers a group described by Subchapter B; and
- (2) complies with this chapter. (V.T.I.C. Art. 3.50, Secs. 1(intro), 3 (part).)

Source Law

Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

.

Sec. 3. Except as may be provided in this Article, it shall be unlawful to make a contract of life insurance covering a group in this state, and

Revised Law

Sec. 1131.003. CERTAIN WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE AUTHORIZED. A wholesale, franchise, or employee life insurance policy may be issued or delivered in this state only if the policy:

- (1) covers a group described by Section 1131.065; and
- (2) complies with Subchapter P. (V.T.I.C. Art. 3.50, Sec. 1(7)(intro).)

Source Law

[Sec. 1]

(7) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:

.

Revised Law

Sec. 1131.004. FORFEITURE OF CERTIFICATE OF AUTHORITY FOR UNAUTHORIZED GROUP LIFE INSURANCE CONTRACT. The certificate of authority to engage in the business of insurance in this state of an insurer that enters into a group life insurance contract other than as authorized by this chapter may be forfeited by an action brought for that purpose by the attorney general at the department's request. (V.T.I.C. Art. 3.50, Sec. 3 (part).)

Source Law

Sec. 3. . . . the license to do business in Texas of any company making a contract of life insurance covering a group in this state except as may be provided in this Article may be forfeited by a suit brought for that purpose by the Attorney General of the State of Texas at the request of the State Board of Insurance.

Revisor's Note

(1) Section 3, V.T.I.C. Article 3.50, refers to a "license to do business" in this state. The revised law substitutes "certificate of authority" for "license" because "certificate of authority" is the term used throughout this code in relation to an entity's authority to engage in the business of insurance.

(2) Section 3, V.T.I.C. Article 3.50, refers to the State Board of Insurance. Chapter 685, Acts of the 73rd Legislature, Regular Session, 1993, abolished the board and transferred its functions to the commissioner of insurance and the Texas Department of Insurance. Chapter 31 of this code defines "commissioner" and "department" for purposes of this code and the other insurance laws of this state to mean the commissioner of insurance and the Texas Department of Insurance, respectively. Throughout this chapter, references to the State Board of Insurance have been changed appropriately.

Revised Law

Sec. 1131.005. GUARANTEEING ISSUANCE OF LIFE INSURANCE POLICY WITHOUT EVIDENCE OF INSURABILITY. (a) In this section, "qualified pension or profit-sharing plan" means a plan that meets the requirements of:

(1) Section 401 or 403, Internal Revenue Code of 1986, and their subsequent amendments; or

(2) any corresponding provisions of prior or subsequent United States revenue laws.

(b) This code does not prohibit a life insurance company authorized to engage in the business of insurance in this state from guaranteeing to issue individual life insurance policies insuring participants in a qualified pension or profit-sharing plan on other than the term plan without evidence of insurability. (V.T.I.C. Art. 3.50-1.)

Source Law

Art. 3.50-1. No provision in the Insurance Code shall be construed to prohibit a life insurance company authorized to do business in this state from guaranteeing to issue individual life insurance policies insuring participants in a qualified pension or profit-sharing plan on other than the term plan without evidence of insurability. The term "qualified pension or

profit-sharing plan" means a plan meeting the requirements of Sections 401 or 403 of the United States Internal Revenue Code as now or hereafter amended, or any corresponding provisions of prior or subsequent United States revenue laws.

Revised Law

Sec. 1131.006. ASSIGNMENT OF BENEFITS. (a) Subject to the terms of a group life insurance policy, an insured under the policy may make to any individual, firm, corporation, association, trust, or other legal entity, other than the insured's employer, an absolute or collateral assignment of all rights and benefits conferred on the insured by the policy or by Subchapter C.

(b) Subsection (a) applies without regard to the date a policy is issued.

(c) Subject to the terms of the policy, an assignment by an insured before September 1, 1969, is valid for the purpose of vesting in the assignee all assigned rights and privileges but without prejudice to the insurer because of any payment the insurer makes or individual policy the insurer issues before receiving notice of the assignment. (V.T.I.C. Art. 3.50, Sec. 2(intro) (part).)

Source Law

Sec. 2. . . . [nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . . provided further that subject to the terms of the policy any person insured under a group life insurance contract, whether issued before or after the effective date of this provision, may make to any person, firm, corporation, association, trust, or other legal entity, other than his employer, an absolute or collateral assignment of all of the rights and benefits conferred on him by any provision of such policy or by this section, but nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this section and subject to the terms of the policy an assignment by an insured before the effective date of this provision is valid for the purpose of vesting in the assignee all rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue prior to receipt of notice of the assignment.

. . . .

Revisor's Note

(1) Section 2, V.T.I.C. Article 3.50, refers both to a "person insured" and an "insured." For consistency throughout

the code, the revised law refers to an "insured." Similar changes have been made throughout this chapter.

(2) Section 2, V.T.I.C. Article 3.50, provides that "nothing herein shall be construed to have prohibited an insured from making an assignment of all or any part of his rights and privileges under the policy before the effective date of this section." This language was added to Section 2 by Chapter 557, Acts of the 61st Legislature, Regular Session, 1969; the effective date of that act was September 1, 1969. The revised law omits this provision as executed. Section 2 also provides that "an assignment by an insured before the effective date of this provision is valid." This provision was also added by the 1969 act, and the revised law substitutes September 1, 1969, for "the effective date of this provision."

Revised Law

Sec. 1131.007. POLICY FORM. A policy of group life insurance is subject to Article 3.42. (New.)

Revisor's Note

Section 2, V.T.I.C. Article 3.50, provides in part that "[n]o policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance of the State of Texas and formally approved by such Board." The revised law omits this provision as unnecessary and substitutes a reference to V.T.I.C. Article 3.42. Subsection (a), V.T.I.C. Article 3.42, provides in part that "[n]o policy, contract or certificate of . . . group life or term insurance . . . shall be delivered, issued or used in this state by . . . any . . . insurer, unless the form of said policy, contract or certificate has been filed with the department as provided by Subsections (c) and (d) of this Article." Subsections (c) and (d), V.T.I.C. Article 3.42, provide for approval of policy forms by the commissioner of insurance. The omitted law reads:

Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance of the State of Texas and formally approved by such Board,

[Sections 1131.008-1131.050 reserved for expansion]

SUBCHAPTER B. GROUP AND WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE: ELIGIBLE POLICYHOLDERS

Revised Law

Sec. 1131.051. EMPLOYERS. (a) A group life insurance policy may be issued to an employer or to trustees of a fund established by an employer to insure the employer's employees for

the benefit of persons other than the employer.

(b) A policy to which this section applies may provide that "employee" includes:

(1) an individual proprietor or partner, if the employer is an individual proprietorship or partnership;

(2) an employee of a subsidiary corporation of the employer;

(3) an employee, individual proprietor, or partner of an affiliated corporation, proprietorship, or partnership, if the business of the employer and the affiliated corporation, proprietorship, or partnership is under common control through stock ownership, contract, or otherwise; or

(4) a retired employee.

(c) The employer or the trustees of a fund established by an employer are the policyholder under a policy to which this section applies.

(d) A policy to which this section applies is subject to Subchapter E. (V.T.I.C. Art. 3.50, Secs. 1(1)(intro), (a) (part).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) . . . The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees.

Revised Law

Sec. 1131.052. LABOR UNIONS. (a) A group life insurance policy may be issued to a labor union to insure the union's members who are actively engaged in the same occupation.

(b) For purposes of this chapter:

(1) a labor union is considered to be an employer; and

(2) a member of a labor union is considered to be an

employee of the union.

(c) The labor union is the policyholder under a policy to which this section applies. (V.T.I.C. Art. 3.50, Sec. 1(2).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(2) A policy issued to a labor union, which shall be deemed the employer and policyholder, to insure the members of such union who are actively engaged in the same occupation and who shall be deemed to be the employees of such union within the meaning of this Article.

Revised Law

Sec. 1131.053. FUNDS ESTABLISHED BY EMPLOYERS OR LABOR UNIONS. (a) A group life insurance policy that insures the employers' employees or the unions' members for the benefit of persons other than the employers or unions may be issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades.

(b) A policy to which this section applies may provide that "employee" includes:

(1) an individual proprietor or partner, if the employer is an individual proprietorship or partnership;

(2) a trustee, an employee of the trustee, or both, if the person's duties are principally connected with the trusteeship; or

(3) a retired employee.

(c) The trustees are the policyholder under a policy to which this section applies.

(d) A policy may not be issued under this section to insure employees of:

(1) an employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, without regard to whether the other employer participates in the fund; or

(2) an employer that is not located in this state, unless:

(A) the majority of the employers whose employees are to be insured are located in this state; or

(B) the policy is issued to the trustees of a fund established by one or more labor unions.

(e) A policy to which this section applies is subject to Subchapter F. (V.T.I.C. Art. 3.50, Secs. 1(5)(intro), (a) (part), (f).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(5) A policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the union, subject to the following requirements:

(a) . . . The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. . . . The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

. . .

(f) No policy may be issued (i) to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer (regardless of whether such other employer is or is not participating in the fund); or (ii) to insure employees of any employer which is not located in this state, unless the majority of the employers whose employees are to be insured are located in this state, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

Revised Law

Sec. 1131.054. GOVERNMENTAL ENTITIES OR ASSOCIATIONS OF PUBLIC EMPLOYEES. (a) In this section, "employee" includes an elected or appointed officer of the state.

(b) A group life insurance policy may be issued to a governmental entity or an association of public employees listed in Subsection (c) to insure the governmental entity's employees or the association's members for the benefit of persons other than the governmental entity or association.

(c) This section authorizes issuance of a group life insurance policy to:

(1) a municipality, independent school district, or common school district;

(2) a department of state government;

(3) a state college or university; or

(4) an association of public employees, including an association of:

(A) employees of the United States government, if the majority of the members of the association reside in this state;

(B) state employees; or

(C) any combination of state, county, and municipal employees.

(d) The governmental entity or association is the policyholder under a policy to which this section applies.

(e) A policy to which this section applies is subject to Subchapter G. (V.T.I.C. Art. 3.50, Secs. 1(3)(intro), (d).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(3) A policy issued to any association of employees of the United States Government or any subdivision thereof, provided the majority of the members of such association are residents of this state, an association of public employees, an incorporated city, town or village, an independent school district, common school district, state colleges or universities, any association of state employees, any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees and any department of the state government which employer or association shall be deemed the policyholder to insure the employees of any such incorporated city, town or village, of any such independent school district, of any common school district, of any such state college or university, of any such department of the state government, members of any association of state, county or city, town or village or of the United States Government or any subdivision thereof, provided the majority of such employees reside in this state, employees for the benefit of persons other than the policyholder subject to the following requirements:

. . .

(d) The term employees as used herein in addition to its usual meaning shall include elective and appointive officials of the state.

Revisor's Note

(1) Section 1(3), V.T.I.C. Article 3.50, refers to an association of employees of "the United States Government or any subdivision thereof." The reference to "any subdivision thereof" is omitted from the revised law because under Section 311.005(9), Government Code (Code Construction Act), "United States" is defined to include "a department, bureau, or other agency of the United States of America." That definition applies to the revised law.

(2) Section 1(3), V.T.I.C. Article 3.50, refers to an "incorporated city, town or village." The revised law substitutes the term "municipality" for "city, town or village" because that is the term used in the Local Government Code. The revised law also omits "incorporated" because under the Local Government Code all municipalities must be incorporated.

(3) Section 1(3), V.T.I.C. Article 3.50, refers to "any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees." The revised law omits the reference to "any association of state, county and city, town or village employees" as unnecessary; such an association is included within the phrase "any association of any combination of state, county or city, town or village employees."

Revised Law

Sec. 1131.055. SPOUSES AND CHILDREN OF EMPLOYEES OF UNITED STATES GOVERNMENT. (a) A group term life insurance policy may be extended, in the form of group term life insurance only, to insure the spouse and natural or adopted minor children of an insured employee of the United States government if:

(1) the policy constitutes a part of the employee benefit program established for the benefit of employees of the United States government; and

(2) the spouse or children of other employees covered by the same employee benefit program in other states are or may be covered by group term life insurance.

(b) A policy to which this section applies is subject to Subchapter H. (V.T.I.C. Art. 3.50, Sec. 1(9)(intro).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(9) Any policy of group term life insurance may be extended, in the form of group term life insurance only, to insure the spouse and minor children, natural or adopted, of an insured employee, provided the policy constitutes a part of the employee benefit program established for the benefit of employees

of the United States government or any subdivision thereof, and provided further, that the spouse or children of other employees covered by the same employee benefit program in other states of the United States are or may be covered by group term life insurance, subject to the following requirements:

. . . .

Revisor's Note

Section 1(9), V.T.I.C. Article 3.50, refers to "the United States government or any subdivision thereof." The revised law omits "any subdivision thereof" for the reason stated in Revisor's Note (1) to Section 1131.054.

Revised Law

Sec. 1131.056. PRINCIPALS. (a) In this section, "agent" includes a general agent, subagent, or salesperson.

(b) A group life insurance policy may be issued to a principal, or if the principal is a life, life and accident, or life, accident, and health insurer, by or to the principal, to insure the principal's agents for the benefit of persons other than the principal.

(c) A policy to which this section applies is subject to Subchapter I. (V.T.I.C. Art. 3.50, Secs. 1(7A)(intro) (part), (a), (e).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . . .

(7A) A policy may be issued to a principal, or if such principal is a life or life and accident or life, accident and health insurer, by or to such principal, covering [when issued not less than ten (10)] agents of the principal, subject to the following requirements:

(a) As used in this section, the term "agents" shall be deemed to include general agents, subagents and salesmen.

. . . .

(e) The insurance shall be for the benefit of persons other than the principal.

Revised Law

Sec. 1131.057. CREDITORS. (a) A group life insurance policy may be issued to a creditor to insure the creditor's debtors.

(b) The creditor is the policyholder under a policy to which this section applies.

(c) A policy to which this section applies is subject to

Subchapter J. (V.T.I.C. Art. 3.50, Sec. 1(4)(intro).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

. . . .

Revised Law

Sec. 1131.058. VETERANS' LAND BOARD. (a) A group life insurance policy may be issued to the Veterans' Land Board to insure persons purchasing land under the Veterans' Land Program as provided by Subchapter I, Chapter 161, Natural Resources Code.

(b) The Veterans' Land Board is the policyholder under a policy to which this section applies. (V.T.I.C. Art. 3.50, Sec. 1(8).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(8) A policy issued to the Veterans Land Board of the State of Texas, who shall be deemed the policyholder to insure persons purchasing land under the Texas Veterans Land Program as provided in Subchapter I, Chapter 161, Natural Resources Code.

Revisor's Note

(1) Section 1(8), V.T.I.C. Article 3.50, refers to the "Veterans Land Board of the State of Texas." The revised law substitutes "Veterans' Land Board" for the "Veterans Land Board of the State of Texas" because that is the proper name of that agency. See Section 49-b, Article III, Texas Constitution.

(2) Section 1(8), V.T.I.C. Article 3.50, refers to the "Texas Veterans Land Program." The revised law substitutes the "Veterans' Land Program" for the "Texas Veterans Land Program" because that is the proper name for that program. See Section 49-b, Article III, Texas Constitution.

Revised Law

Sec. 1131.059. ASSOCIATIONS OR TRUSTS FOR PAYMENT OF FUNERAL EXPENSES. A group life insurance policy may be issued to an association or trust for a group of individuals for the payment of future funeral expenses. (V.T.I.C. Art. 3.50, Sec. 1(5A).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . . .

(5A) A policy issued to an association or trust for a group of individuals for the payment of future funeral expenses.

Revised Law

Sec. 1131.060. NONPROFIT ORGANIZATIONS OR ASSOCIATIONS.

(a) A group life insurance policy may be issued to a nonprofit service, civic, fraternal, or community organization or association to insure the organization's or association's members and employees for the benefit of persons other than the organization or association or an officer of the organization or association.

(b) To be eligible to obtain a group life insurance policy under this section, an organization or association must:

- (1) have a constitution or bylaws;
- (2) have actively existed for at least two years; and
- (3) have been formed for purposes other than that of obtaining insurance.

(c) The organization or association is the policyholder under a policy to which this section applies.

(d) A policy to which this section applies is subject to Subchapter K. (V.T.I.C. Art. 3.50, Sec. 1(10)(intro).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . . .

(10) A policy of group life insurance may be issued to a nonprofit service, civic, fraternal, or community organization or association which has had an active existence for at least two years, has a constitution or bylaws, was formed for purposes other than obtaining insurance, and which association shall be deemed the policyholder to insure members and employees of such association for the benefit of persons other than the association or any of its officers, subject to the following requirements:

.

[Sections 1131.061-1131.063 reserved for expansion]

Revised Law

Sec. 1131.064. OTHER GROUPS. (a) A group life insurance policy may be issued to cover a group other than a group

described by Sections 1131.051-1131.060 if the commissioner finds that:

(1) the issuance of the policy is not contrary to the best interest of the public;

(2) the issuance of the policy would result in economies of acquisition or administration; and

(3) the benefits are reasonable in relation to the premiums charged.

(b) Group life insurance coverage may not be offered under this section in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those prescribed by Subsections (a)(1)-(3) has determined that those requirements have been met.

(c) A policy to which this section applies is subject to Subchapter O. (V.T.I.C. Art. 3.50, Secs. 1(6)(intro), (a), (b).)

Source Law

[Sec. 1. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:]

. . .

(6) A policy issued to cover any other group subject to the following requirements:

(a) No such group life insurance policy shall be delivered in this state unless the Commissioner of Insurance finds that:

(i) the issuance of such group policy is not contrary to the best interest of the public;

(ii) the issuance of the group policy would result in economies of acquisition or administration; and

(iii) the benefits are reasonable in relation to the premiums charged.

(b) No such group life insurance coverage may be offered in this state by an insurer under a policy issued in another state unless this state or another state having requirements substantially similar to those contained in Paragraph (a) of Subdivision (6) has made a determination that such requirements have been met.

Revised Law

Sec. 1131.065. WHOLESALE, FRANCHISE, OR EMPLOYEE LIFE INSURANCE. (a) Policies of wholesale, franchise, or employee life insurance may be issued to:

(1) the employees of a common employer or employers;

(2) the members of one or more labor unions; or

(3) the members of one or more credit unions.

(b) A policy to which this section applies is subject to

Subchapter P. (V.T.I.C. Art. 3.50, Sec. 1(7)(b) (part).)

Source Law

[Sec. 1]

[(7) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:]

. . .

(b) Wholesale, franchise or employee life insurance may be issued to (1) the employees of a common employer or employers, . . . ; or (2) the members of a labor union or unions . . . ; or (3) the members of a credit union or credit unions

[Sections 1131.066-1131.100 reserved for expansion]

SUBCHAPTER C. GROUP LIFE INSURANCE:

REQUIRED PROVISIONS

Revised Law

Sec. 1131.101. REQUIRED PROVISIONS. (a) A group life insurance policy may not be delivered in this state unless the policy contains in substance the provisions prescribed by this subchapter or provisions in relation to provisions prescribed by this subchapter that, in the opinion of the commissioner, are:

(1) more favorable to an insured under the policy; or
(2) at least as favorable to an insured under the policy and more favorable to the policyholder.

(b) The standard provisions required for individual life insurance policies do not apply to group life insurance policies. (V.T.I.C. Art. 3.50, Sec. 2(intro) (part).)

Source Law

Sec. 2. . . . nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision, or provisions which in the opinion of the Commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided, however, . . . (b) that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; and

Revised Law

Sec. 1131.102. NONFORFEITURE. (a) A group life insurance policy other than a group term life insurance policy must contain nonforfeiture provisions that, in the commissioner's opinion, are equitable to the insured and the policyholder.

(b) This section does not require that a group life

insurance policy contain the same nonforfeiture provisions as required for an individual life insurance policy. (V.T.I.C. Art. 3.50, Sec. 2(intro) (part).)

Source Law

Sec. 2. . . . [nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision, . . . provided, however,] . . . (c) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a non-forfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same non-forfeiture provisions as are required for individual life insurance policies; and

Revised Law

Sec. 1131.103. GRACE PERIOD. (a) A group life insurance policy must provide that the policyholder or premium payor is entitled to a grace period of 31 days for the payment of any premium, other than the first, due under the policy. During the grace period, the death benefit coverage continues in force unless the policyholder or premium payor gives the insurer written notice of discontinuance before the date of discontinuance and in accordance with the policy.

(b) The policy may provide that the policyholder or premium payor is liable to the insurer for payment of a pro rata premium for the time the policy was in force during a grace period.

(V.T.I.C. Art. 3.50, Sec. 2(1).)

Source Law

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . .

(1) A provision that the policyholder or premium payor is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder or premium payor shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder or premium payor shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace

period.

Revised Law

Sec. 1131.104. INCONTESTABILITY OF POLICY. A group life insurance policy must provide that:

(1) the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two years after its date of issue; and

(2) a statement made by any insured under the policy relating to the insured's insurability may not be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force before the contest for a period of two years from its date of issue during the insured's lifetime and unless the statement is contained in a written instrument signed by the insured making the statement. (V.T.I.C. Art. 3.50, Sec. 2(2).)

Source Law

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . .

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two (2) years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two (2) years during such person's lifetime nor unless it is contained in a written instrument signed by him.

Revised Law

Sec. 1131.105. APPLICATION FOR POLICY; STATEMENTS OF INSURED. A group life insurance policy must provide that:

(1) a copy of any application for the policy by the policyholder must be attached to the policy when issued;

(2) a statement made by the policyholder or an insured is considered a representation and not a warranty; and

(3) a statement made by an insured may not be used in any contest under the policy unless a copy of the instrument containing the statement is or has been furnished to the person or the person's beneficiary. (V.T.I.C. Art. 3.50, Sec. 2(3).)

Source Law

[Sec. 2. No policy of group life insurance shall be issued

or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . .

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

Revised Law

Sec. 1131.106. EVIDENCE OF INSURABILITY. A group life insurance policy must state the conditions, if any, under which the insurer reserves the right to require an individual eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition of obtaining part or all of the coverage. (V.T.I.C. Art. 3.50, Sec. 2(4).)

Source Law

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . .

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

Revised Law

Sec. 1131.107. ADJUSTMENT OF PREMIUMS OR BENEFITS IF AGE OF INSURED IS MISSTATED. (a) A group life insurance policy must specify an equitable adjustment of premiums, benefits, or both, to be made if the age of an insured has been misstated.

(b) The provision required by Subsection (a) must contain a clear statement of the method of adjustment to be used.

(c) This section does not apply to a policy to which Section 1131.703 applies. (V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(5).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . .

(5) A provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

Revised Law

Sec. 1131.108. INSURANCE CERTIFICATE. (a) A group life insurance policy must provide that the insurer will issue to the policyholder for delivery to each insured an individual certificate stating:

(1) the insurance protection to which the insured is entitled;

(2) to whom the insurance benefits are payable; and

(3) the rights and conditions specified by Sections 1131.110-1131.112.

(b) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(intro) (part), (7).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . . provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; . . .

(7) A provision that the insurer will issue to the

policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in (8), (9), and (10) following.

Revised Law

Sec. 1131.109. PERSON TO WHOM BENEFITS ARE PAYABLE. (a) A group life insurance policy must provide that any amount due because of an insured's death must be paid to the beneficiary designated by the insured or the beneficiary's assignee, subject to:

(1) the provisions of the policy, if the designated beneficiary as to all or any part of the amount is not living at the time the insured dies; and

(2) any right reserved by the insurer in the policy and stated in the certificate to pay at the insurer's option a portion of the amount not to exceed \$250 to any person the insurer determines is equitably entitled to the portion because of having incurred funeral or other expenses incident to the last illness or death of the insured.

(b) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.
(V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(intro) (part), (6).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . . provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; . . .

(6) A provision that any sum becoming due by reason of the death of a person insured shall be payable to the beneficiary designated by the person insured, or his assignee, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum living at the death of the person insured, and subject to any right reserved by the

insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding Two Hundred and Fifty (\$250) Dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

Revised Law

Sec. 1131.110. RIGHT TO INDIVIDUAL POLICY ON TERMINATION OF EMPLOYMENT OR MEMBERSHIP. (a) A group life insurance policy must provide that if any portion of the insurance on an individual insured under the policy ceases because the individual's employment or membership in the class or classes eligible for coverage under the policy terminates, the individual is entitled to have the insurer issue to the individual an individual life insurance policy without disability or other supplementary benefits.

(b) An individual must apply for an individual policy and pay the first premium to the insurer not later than the 31st day after the date the individual's employment or membership terminates.

(c) An individual policy under this section must be issued without evidence of insurability.

(d) The insured may select any individual policy, other than a term life insurance policy, customarily issued by the insurer for an individual of the insured's age and for the amount requested.

(e) Except as provided by Subsection (f), the individual policy must be in an amount not to exceed the amount of life insurance that ceases because of the termination of employment or membership.

(f) For purposes of Subsection (e), any amount of insurance that, on or before the date of the termination of employment or membership, has matured as an endowment payable to the insured is not included in the amount that is considered to cease because of the termination. This subsection applies without regard to whether the endowment is payable in full, in installments, or in the form of an annuity.

(g) The premium on an individual policy must be at the insurer's then customary rate applicable to:

- (1) the form and amount of the individual policy;
- (2) the class of risk to which the insured then belongs; and
- (3) the insured's age on the effective date of the individual policy.

(h) This section does not apply to:

- (1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.
(V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(intro) (part), (8).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . . provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; . . .

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination, and provided further that:

(a) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(b) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purpose of this provision, be included in the amount which is considered to cease because of such termination; and

(c) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

Revised Law

Sec. 1131.111. RIGHT TO INDIVIDUAL POLICY ON TERMINATION OF COVERAGE UNDER GROUP POLICY. (a) A group life insurance policy must provide that if the policy terminates or is amended so as to terminate the insurance of a class of insured individuals, each individual insured under the policy on the date of the termination or amendment whose insurance terminates and who has been insured under the policy for at least five years before the date of the termination or amendment is entitled to have the insurer issue to the individual an individual life insurance policy, subject to the conditions and limitations provided by Section 1131.110.

(b) Notwithstanding Section 1131.110(e), a group life insurance policy may provide that the amount of an individual policy issued under this section may not exceed the lesser of:

(1) the amount of the individual's life insurance coverage that ceases because of the termination or amendment of the group policy, less the amount of any life insurance for which the individual is or becomes eligible under any group policy issued or reinstated by the same or another insurer not later than the 31st day after the date of the termination or amendment; or

(2) \$2,000.

(c) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(intro) (part), (9).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following provision,] . . . provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; . . .

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so

insured for at least five (5) years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by (8) above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one (31) days after such termination, and (b) Two Thousand (\$2,000) Dollars.

Revised Law

Sec. 1131.112. PAYMENT OF BENEFITS ON DEATH OF INSURED BEFORE INDIVIDUAL POLICY BECOMES EFFECTIVE. (a) A group life insurance policy must provide that if an individual insured under the group policy dies during the period within which the individual would have been entitled to have an individual policy issued as provided by Section 1131.110 or 1131.111 and before such an individual policy takes effect, the amount of life insurance that the individual would have been entitled to have issued to the individual under the individual policy is payable as a claim under the group policy.

(b) This section applies without regard to whether:

(1) the application for the individual policy has been made; or

(2) the first premium for the individual policy has been paid.

(c) This section does not apply to:

(1) a policy issued to a creditor to insure the creditor's debtors; or

(2) a policy to which Section 1131.703 applies.

(V.T.I.C. Art. 3.50, Secs. 1(6)(d) (part); 2(intro) (part), (10).)

Source Law

[Sec. 1]

(6) . . .

(d) . . . The provisions of Subdivisions 5 through 10 of Section 2 of this article shall not apply to such policies.

[Sec. 2. No policy of group life insurance shall be issued or delivered in this State unless and until a copy of the form thereof has been filed with the State Board of Insurance . . . , nor shall any policy of group life insurance be delivered in this State unless it contains in substance the following

provision,] . . . provided, however, (a) that provisions (6) to (10) inclusive shall not apply to policies issued to a creditor to insure debtors of such creditor; . . .

(10) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with (8) or (9) above and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

[Sections 1131.113-1131.150 reserved for expansion]

SUBCHAPTER D. GROUP LIFE INSURANCE:

OPTIONAL PROVISIONS

Revised Law

Sec. 1131.151. CONTINUATION OF BENEFITS FOR FAMILY MEMBERS AFTER DEATH OF INSURED. (a) A group life insurance policy that provides for the insurer to pay benefits for members of the family or dependents of an individual in the insured group may provide for a continuation of any part of those benefits after the death of the individual in the insured group.

(b) Any amounts of insurance provided by benefits under Subsection (a) are not considered to be life insurance for the purpose of determining the maximum amount of term insurance that may be issued on any one life. (V.T.I.C. Art. 3.50, Sec. 6.)

Source Law

Sec. 6. Any group life insurance policy which contains provisions for the payment by the insurer of benefits for members of the family or dependents of a person in the insured group may provide for a continuation of such benefits or any part or parts thereof after the death of the person in the insured group, and provided further that any amounts of insurance so provided by such benefits shall not be construed as life insurance for the purpose of determining the maximum amount of term insurance that may be issued on any one life.

[Sections 1131.152-1131.200 reserved for expansion]

SUBCHAPTER E. GROUP LIFE INSURANCE POLICIES ISSUED TO

EMPLOYERS: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.201. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group

described by Section 1131.051. (V.T.I.C. Art. 3.50, Sec. 1(1)(intro) (part).)

Source Law

[Sec. 1]

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, . . . subject to the following requirements:

. . . .

Revised Law

Sec. 1131.202. ELIGIBLE EMPLOYEES. All employees of the employer, or all of any class or classes of employees determined by conditions relating to their employment, are eligible for insurance under the policy. (V.T.I.C. Art. 3.50, Sec. 1(1)(a) (part).)

Source Law

[Sec. 1]

(1) . . .

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. . . .

Revised Law

Sec. 1131.203. PAYMENT OF PREMIUMS. (a) The policyholder must pay the premium for the policy:

(1) wholly from the employer's fund or funds contributed by the employer; or

(2) partly from funds described by Subdivision (1) and partly from funds contributed by the insured employees.

(b) An insurer may not issue a policy as to which the entire premium is to be derived from funds contributed by the insured employees. (V.T.I.C. Art. 3.50, Sec. 1(1)(b) (part).)

Source Law

[Sec. 1]

(1) . . .

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's fund or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. . . .

Revised Law

Sec. 1131.204. MINIMUM ENROLLMENT. (a) The policy must

cover at least 10 employees on the date the policy is issued.

(b) A policy as to which the insured employees are to pay part of the premium may take effect only if at least 75 percent of the employees eligible on the date the policy takes effect, excluding any employees as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.

(c) A policy as to which the insured employees do not pay any part of the premium must insure:

(1) all eligible employees; or

(2) all eligible employees except any employees as to whom evidence of individual insurability is not satisfactory to the insurer. (V.T.I.C. Art. 3.50, Secs. 1(1)(b) (part), (c).)

Source Law

[Sec. 1]

(1) . . .

(b) . . . A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent (75%) of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least ten (10) employees at date of issue.

Revised Law

Sec. 1131.205. AMOUNTS OF INSURANCE. (a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the employees or by the employer or trustees.

(b) An insurer may not issue a policy that provides life insurance on an employee that, together with any other life insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer, exceeds \$250,000, except that if the employee's annual compensation from the employer or employers multiplied by seven exceeds \$250,000, the group term life insurance may not exceed that computed amount.

(c) Subsection (b) does not apply if:

(1) the policy provides group insurance on other than the term plan;

(2) the insurance is to be used to fund benefits under a pension or profit-sharing plan; and

(3) the amount of insurance does not exceed the amount required to provide, at the normal retirement date, the pension specified by the plan.

(d) Notwithstanding Subsection (b), a group policy that is issued by the same or another insurer to replace another group policy may provide term life insurance not to exceed the greater of:

(1) the amount provided by the policy that it replaces; or

(2) the amount provided by Subsection (b). (V.T.I.C. Art. 3.50, Sec. 1(1)(d).)

Source Law

[Sec. 1]

(1) . . .

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides insurance on any employee which together with any other insurance under any group life insurance policies issued to the employer or to the trustees of a fund established by the employer exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), unless seven hundred percent of the annual compensation of such employee from his employer or employers exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), in which event all such term insurance shall not exceed seven hundred percent of such annual compensation, except that this limitation shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension or profit sharing plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

[Sections 1131.206-1131.250 reserved for expansion]

SUBCHAPTER F. GROUP LIFE INSURANCE POLICIES ISSUED
TO FUNDS ESTABLISHED BY EMPLOYERS
OR LABOR UNIONS: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.251. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.053. (V.T.I.C. Art. 3.50, Sec. 1(5)(intro) (part).)

Source Law

[Sec. 1]

(5) A policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or to the trustees of a fund established by one or more employers in the same industry and one or more labor unions, or by one or more employers and one or more labor unions whose members are in the same or related occupations or trades, . . . subject to the following requirements:

. . . .

Revised Law

Sec. 1131.252. ELIGIBLE EMPLOYEES OR MEMBERS. (a) The individuals eligible for insurance under the policy are:

(1) all employees of the employers and the employees of the trade association of those employers;

(2) all members of the labor union; or

(3) all of any class or classes of employees or members determined by conditions relating to their employment, to their membership in the unions, or both.

(b) A director of a corporate employer is not eligible for insurance under the policy unless the person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director.

(c) An individual proprietor or partner is not eligible for insurance under the policy unless the person is actively engaged in and devotes a substantial part of the person's time to conducting the business of the proprietorship or partnership.

(V.T.I.C. Art. 3.50, Sec. 1(5)(a) (part).)

Source Law

[Sec. 1]

(5) . . .

(a) The persons eligible for insurance shall be all of the employees of the employers and the employees of the trade association of such employers or all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or both. . . . No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. . . .

Revised Law

Sec. 1131.253. PAYMENT OF PREMIUMS. (a) Subject to Subsection (b), the policyholder must pay the premium for the policy:

(1) wholly from funds contributed by the employer or employers, the labor union or unions, or both; or

(2) partly from funds described by Subdivision (1) and partly from funds contributed by the insureds.

(b) An insured's contribution toward the cost of the insurance may not exceed 40 cents per month for each \$1,000 of insurance coverage.

(c) The policy may provide that a participating employer or labor union may pay the premium directly to the insurer for the policy issued to the trustee. If payment is made as provided by this subsection, the employer or labor union is the premium payor for the insured employees or union members for that employer unit. (V.T.I.C. Art. 3.50, Sec. 1(5)(b) (part).)

Source Law

[Sec. 1]

(5) . . .

(b) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, partly from such funds and partly from funds contributed by the insured persons, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month. . . . The policy may provide that a participating employer or labor union may pay the premium directly to the insurer for the policy issued to the trustee, and in that event, the employer or labor union becomes the premium payor for the insured employees or union members for that employer unit.

Revised Law

Sec. 1131.254. MINIMUM ENROLLMENT. (a) The policy must cover at least 100 individuals on the date the policy is issued unless the policy is issued to the trustees of a fund established by:

(1) employers that have assumed obligations through a collective bargaining agreement and are participating in the fund to:

(A) comply with those obligations with regard to one or more classes of their employees who are covered by the collective bargaining agreement; or

(B) provide insurance benefits for other classes of their employees; or

(2) one or more labor unions.

(b) A policy as to which the insureds are to pay part of the premium from funds contributed specifically for their insurance may take effect only if at least 75 percent of the individuals of each participating employer unit who are eligible on the date the policy takes effect, excluding any individuals as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions.

(c) A policy as to which the insureds do not pay any part of the premium must insure:

(1) all eligible individuals; or

(2) all eligible individuals except any individuals as to whom evidence of individual insurability is not satisfactory to the insurer. (V.T.I.C. Art. 3.50, Secs. 1(5)(b) (part), (c).)

Source Law

[Sec. 1]

(5) . . .

(b) . . . A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five percent (75%) of the then eligible persons of each participating employer unit, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. . . .

(c) The policy must cover at date of issue at least one hundred (100) persons; unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

Revised Law

Sec. 1131.255. AMOUNTS OF INSURANCE. (a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insureds or by the policyholder or employer.

(b) An insurer may not issue a policy that provides term life insurance on an employee that, together with any other term life insurance under any group life insurance policies issued to trustees or employers, exceeds \$250,000, except that if the

employee's annual compensation from the employer or employers multiplied by seven exceeds \$250,000, the group term life insurance may not exceed that computed amount.

(c) Subsection (b) does not apply if:

(1) the policy provides group insurance on other than the term plan;

(2) the insurance is to be used to fund benefits under a pension plan; and

(3) the amount of insurance does not exceed the amount required to provide, at the normal retirement date, the pension specified by the plan.

(d) Notwithstanding Subsection (b), a group policy that is issued by the same or another insurer to replace another group policy may provide term life insurance not to exceed the greater of:

(1) the amount provided by the policy that it replaces; or

(2) the amount provided by Subsection (b). (V.T.I.C. Art. 3.50, Secs. 1(5)(d), (e).)

Source Law

[Sec. 1]

(5) . . .

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder or employer. No policy may be issued which provides term insurance on any person which together with any other term insurance under any group life insurance policy or policies issued to trustees or employers exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), unless seven hundred percent of the annual compensation of such employee from his employer or employers exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), in which event all such term insurance shall not exceed seven hundred percent of such annual compensation.

(e) The limitation as to amount of group insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund the benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amount provided by the policy which it replaces, or the amounts provided above whichever is greater.

[Sections 1131.256-1131.300 reserved for expansion]

SUBCHAPTER G. GROUP LIFE INSURANCE POLICIES ISSUED TO
GOVERNMENTAL ENTITIES OR ASSOCIATIONS OF
PUBLIC EMPLOYEES: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.054. (V.T.I.C. Art. 3.50, Sec. 1(3)(intro) (part).)

Source Law

[Sec. 1]

(3) A policy issued to any association of employees of the United States Government or any subdivision thereof, . . . an association of public employees, an incorporated city, town or village, an independent school district, common school district, state colleges or universities, any association of state employees, any association of state, county and city, town or village employees, and any association of any combination of state, county or city, town or village employees and any department of the state government . . . subject to the following requirements:

. . . .

Revised Law

Sec. 1131.302. ELIGIBLE EMPLOYEES OR MEMBERS. All employees of the employer or all members of the association are eligible for insurance under the policy. (V.T.I.C. Art. 3.50, Sec. 1(3)(a).)

Source Law

[Sec. 1]

(3) . . .

(a) The persons eligible for insurance under the policy shall be all of the employees of the employer or if the policyholder is an association, all of the members of the association.

Revised Law

Sec. 1131.303. PAYMENT OF PREMIUMS. (a) The premium for the policy may be paid wholly or partly from funds contributed by:

(1) the employer;
(2) the individuals insured under the policy; or
(3) the insured employees who are members of the association of employees.

(b) Any money or credits received by or allowed to the policyholder under any participation agreement contained in or

issued in connection with the policy must be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contribution for future premiums.

(c) The employer may deduct from an employee's salary the employee's contribution for the premiums if authorized to do so in writing by that employee. (V.T.I.C. Art. 3.50, Sec. 1(3)(b) (part).)

Source Law

[Sec. 1]

(3) . . .

(b) The premium for a policy issued to any policyholder authorized to be such policyholder under Subsection (3) of Section 1, Article 3.50, Texas Insurance Code, may be paid in whole or in part from funds contributed by the employer, or in whole or in part from funds contributed by the persons insured under said policy; or in whole or in part from funds contributed by the insured employees who are members of such association of employees; provided, however, that any monies or credits received by or allowed to the policyholder pursuant to any participation agreement contained in or issued in connection with the policy shall be applied to the payment of future premiums and to the pro rata abatement of the insured employees' contribution therefor; and provided further, that the employer may deduct from the employees' salaries the employees' contributions for the premiums when authorized in writing by the respective employees so to do. . . .

Revised Law

Sec. 1131.304. MINIMUM ENROLLMENT. (a) The policy must cover at least 10 employees or members on the date the policy is issued.

(b) A policy as to which the insured employees or members pay part of the premium may take effect only if at least 75 percent of the employees or members eligible on the date the policy takes effect, excluding any employees or members as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions.

(c) A group policy issued before September 1, 1969, to a group described by Section 1131.054 that was in existence on that date continues in force without regard to whether the number of the employees or members insured under the policy was less than 75 percent of the employees or members eligible on that date. (V.T.I.C. Art. 3.50, Secs. 1(3)(b) (part), (c).)

Source Law

[Sec. 1]

(3) . . .

(b) . . . Such policy may be placed in force only if at least 75% of the eligible employees or if an association of employees is the policyholder, 75% of the eligible members of said association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required premium contributions and become insured thereunder. Any group policies heretofore issued to any of the groups named in Section 1(3) above and in existence on the effective date of this Act shall continue in force even though the number of employees or members insured thereunder is less than 75% of the eligible employees or members on the effective date of this Act.

(c) The policy must cover at least ten (10) employees at date of issue, or if an association of employees is the policyholder, ten (10) members of said association at date of issue.

[Sections 1131.305-1131.350 reserved for expansion]

SUBCHAPTER H. GROUP TERM LIFE INSURANCE POLICIES
EXTENDED TO SPOUSES AND CHILDREN OF EMPLOYEES OF
UNITED STATES: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.351. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group term life insurance policy extended to a group described by Section 1131.055. (V.T.I.C. Art. 3.50, Sec. 1(9)(intro) (part).)

Source Law

[Sec. 1]

(9) Any policy of group term life insurance may be extended, . . . to insure the spouse and minor children, natural or adopted, of an insured employee, . . . subject to the following requirements:

.

Revised Law

Sec. 1131.352. PAYMENT OF PREMIUMS. The policyholder must pay the premium for the group term life insurance solely from funds contributed by the insured employees. (V.T.I.C. Art. 3.50, Sec. 1(9)(a).)

Source Law

[Sec. 1]

(9) . . .

(a) The premiums for the group term life insurance shall be paid by the policyholder from funds solely contributed by the insured employee.

Revised Law

Sec. 1131.353. AMOUNTS OF INSURANCE. (a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured employees or by the policyholder.

(b) Group term life insurance on the life of an employee's spouse may not exceed the lesser of:

(1) \$10,000; or

(2) one-half of the amount of insurance on the life of the insured employee under the group policy.

(c) Group term life insurance on the life of an employee's minor child may not exceed \$2,000. (V.T.I.C. Art. 3.50, Sec. 1(9)(b).)

Source Law

[Sec. 1]

(9) . . .

(b) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured employee or by the policyholder, provided that group term life insurance upon the life of a spouse shall not exceed the lesser of (1) Ten Thousand Dollars (\$10,000.00) or (2) one-half of the amount of insurance on the life of the insured employee under the group policy; and provided that group term life insurance on the life of any minor child shall not exceed Two Thousand Dollars (\$2,000.00).

Revised Law

Sec. 1131.354. CONVERSION RIGHTS. On termination of group term life insurance coverage for a spouse insured under this subchapter because the insured employee's employment terminates or the employee dies, or because the group contract terminates, the spouse has the same conversion rights as to the group term life insurance on the spouse's life as the employee. (V.T.I.C. Art. 3.50, Sec. 1(9)(c).)

Source Law

[Sec. 1]

(9) . . .

(c) Upon termination of the group term life insurance with respect to the spouse of any insured employee by reason of such person's termination of employment or death, or termination of the group contract, the spouse insured pursuant to this section shall have the same conversion rights as to the group term life insurance on his or her life as is provided for the insured employee.

Revised Law

Sec. 1131.355. CERTIFICATE OF INSURANCE. Only one certificate of insurance issued for delivery to an insured employee is required if the certificate includes a statement concerning any dependent's coverage. (V.T.I.C. Art. 3.50, Sec. 1(9)(d).)

Source Law

[Sec. 1]

(9) . . .

(d) Only one certificate need be issued for delivery to an insured employee if a statement concerning any dependent's coverage is included in such certificate.

[Sections 1131.356-1131.400 reserved for expansion]

SUBCHAPTER I. GROUP LIFE INSURANCE POLICIES
ISSUED TO PRINCIPALS: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.401. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.056. (V.T.I.C. Art. 3.50, Sec. 1(7A)(intro) (part).)

Source Law

[Sec. 1]

(7A) A policy may be issued to a principal, or if such principal is a life or life and accident or life, accident and health insurer, by or to such principal, . . . subject to the following requirements:

.

Revised Law

Sec. 1131.402. ELIGIBLE AGENTS. Agents who are under contract to provide personal services for the principal for a commission or other fixed or ascertainable compensation, or any class or classes of those agents determined by conditions relating to the services the agents provide to the principal, are eligible for insurance under the policy. (V.T.I.C. Art. 3.50, Sec. 1(7A)(b).)

Source Law

[Sec. 1]

(7A) . . .

(b) The agents eligible for insurance under the policy shall be those who are under contract to render personal services for the principal for a commission or other fixed or ascertainable compensation.

Revisor's Note

Section 1(7A)(b), V.T.I.C. Article 3.50, provides that "[t]he agents eligible for insurance under the policy shall be those who are under contract to render personal services for the principal for a commission or other fixed or ascertainable compensation." The revised law adds a reference to "any class or classes of those agents" because Section 1(7A)(c), V.T.I.C. Article 3.50, revised in pertinent part as Section 1131.404, refers to "all . . . agents or all of any class or classes thereof"; it is clear this concept was also intended to apply under Section 1(7A)(b).

Revised Law

Sec. 1131.403. PAYMENT OF PREMIUMS. The premium for the policy must be paid:

- (1) wholly by the principal; or
- (2) partly from funds contributed by the principal and partly from funds contributed by the insured agents. (V.T.I.C. Art. 3.50, Sec. 1(7A)(c) (part).)

Source Law

[Sec. 1]

(7A) . . .

(c) The premium for the policy shall be paid either wholly by the principal or partly from funds contributed by the principal and partly from funds contributed by the insured agents. . . .

Revised Law

Sec. 1131.404. MINIMUM ENROLLMENT. (a) The policy must cover at least 10 agents on the date the policy is issued.

(b) Subject to Subsection (c), a policy as to which the insured agents pay part of the premium must cover, on the date the policy is issued, at least:

- (1) 75 percent of the eligible agents; or
- (2) 75 percent of any class or classes of eligible agents, determined by conditions relating to the services the agents provide to the principal.

(c) Benefits may be extended to another class of agents if 75 percent of the class request coverage.

(d) A policy as to which the insured agents do not pay any part of the premium must insure:

- (1) all eligible agents; or
- (2) all of any class or classes of eligible agents determined by conditions relating to the services the agents provide to the principal. (V.T.I.C. Art. 3.50, Secs. 1(7A)(intro) (part), (c) (part).)

Source Law

[Sec. 1]

(7A) [A policy may be issued to a principal, or if such principal is a life or life and accident or life, accident and health insurer, by or to such principal,] covering when issued not less than ten (10) agents of the principal, . . .

(c) . . . A policy on which no part of the premium is to be derived from funds contributed by the insured agents must insure all of the eligible agents or all of any class or classes thereof determined by conditions pertaining to the services to be rendered by the agents to the principal. A policy on which part of the premium is to be derived from funds contributed by the insured agents must cover at issue at least seventy-five percent (75%) of the eligible agents or at least seventy-five percent (75%) of any class or classes thereof determined by conditions pertaining to the services to be rendered by the agents; provided, however, that the benefits may be extended to other classes of agents as seventy-five percent (75%) thereof express the desire to be covered.

Revised Law

Sec. 1131.405. AMOUNTS OF INSURANCE. (a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the agents or by the principal.

(b) An insurer may not issue a policy that provides term life insurance on an agent that, together with any other term life insurance under any group life insurance policies issued to the principal, exceeds \$250,000, except that if the agent's annual commissions or other fixed or ascertainable compensation from the principal multiplied by seven exceeds \$250,000, the group term life insurance may not exceed that computed amount. (V.T.I.C. Art. 3.50, Sec. 1(7A)(d).)

Source Law

[Sec. 1]

(7A) . . .

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the principal or by the agents. No policy may be issued which provides term insurance on any agent which together with any other term insurance under any group life insurance policy or policies issued to the principal exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), unless seven hundred percent of the annual commissions or other fixed or ascertainable compensation of such agent from the principal exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), in which event all such term insurance shall not exceed seven hundred percent of such

annual commissions or other fixed or ascertainable compensation.

[Sections 1131.406-1131.450 reserved for expansion]

SUBCHAPTER J. GROUP LIFE INSURANCE POLICIES ISSUED TO CREDITORS:
ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.057. (V.T.I.C. Art. 3.50, Sec. 1(4) (intro).)

Source Law

[Sec. 1]

(4) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

. . . .

Revised Law

Sec. 1131.452. ELIGIBLE DEBTORS. All individuals who become borrowers, or purchasers of securities, merchandise, or other property, under an agreement to pay the borrowed amount or to pay the balance of the price of the securities, merchandise, or other property purchased, are eligible for insurance under the policy. (V.T.I.C. Art. 3.50, Sec. 1(4)(a) (part).)

Source Law

[Sec. 1]

(4) . . .

(a) The debtors eligible for insurance under the policy shall all be members of a group of persons . . . who become borrowers, or purchasers of securities, merchandise or other property, under agreement to repay the sum borrowed or to pay the balance of the price of the securities, merchandise or other property purchased,

Revised Law

Sec. 1131.453. PAYMENT OF PREMIUMS. The policyholder must pay the premium for the policy from:

- (1) the creditor's funds;
- (2) charges collected from the insured debtors; or
- (3) both the creditor's funds and charges collected from the insured debtors. (V.T.I.C. Art. 3.50, Sec. 1(4)(b).)

Source Law

[Sec. 1]

(4) . . .

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or both.

Revised Law

Sec. 1131.454. MINIMUM ENROLLMENT. The policy must cover at least 50 debtors at all times. (V.T.I.C. Art. 3.50, Sec. 1(4)(a) (part).)

Source Law

[Sec. 1]

(4) . . .

(a) The debtors eligible for insurance under the policy shall all be members of a group of persons numbering not less than fifty (50) at all times,

Revised Law

Sec. 1131.455. AMOUNT OF INSURANCE. (a) Except as otherwise provided by this section, the amount of insurance on a debtor's life under the policy may not exceed the lesser of:

(1) the amount of the debtor's indebtedness;

(2) \$50,000, if the indebtedness is not secured by a first lien on real estate; or

(3) \$125,000, if the indebtedness is secured by a first lien on real estate.

(b) Subject to Subsections (c) and (d), the face amount of any loan or loan commitment, totally or partially executed, made to a debtor for educational purposes or to a debtor with seasonal income by a creditor in good faith for general agricultural or horticultural purposes, secured or unsecured, under which the debtor becomes personally liable for the payment of the loan, may be insured in an initial amount of insurance not to exceed the lesser of:

(1) the total amount payable under the contract of indebtedness; or

(2) \$100,000 on any one life.

(c) If indebtedness described by Subsection (b) is payable in substantially equal installments, the amount of insurance may not at any time exceed the greater of the scheduled or actual amount of unpaid indebtedness.

(d) Insurance on a loan commitment described by Subsection (b) that does not exceed one year in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan but may not exceed \$100,000 on any one life. (V.T.I.C. Art. 3.50, Sec. 1(4)(a) (part).)

Source Law

[Sec. 1]

(4) . . .

(a) [The debtors eligible for insurance under the policy shall all be members of a group of persons . . . who become borrowers, or purchasers of securities, merchandise or other property, under agreement to repay the sum borrowed or to pay the balance of the price of the securities, merchandise or other property purchased,] to the extent of their respective indebtedness, but not to exceed Fifty Thousand Dollars (\$50,000.00) on any one life or not to exceed One Hundred Twenty-Five Thousand Dollars (\$125,000.00) on any one life if the indebtedness is secured by a first lien on real estate; provided, however, the face amount of any loan or loan commitment, totally or partially executed, made to a debtor for educational purposes or to a debtor with seasonal income by a creditor in good faith for general agricultural or horticultural purposes, secured or unsecured, where the debtor becomes personally liable for the payment of such loan, may be so insured in an initial amount of such insurance not to exceed the total amount repayable under the contract of indebtedness and, when such indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater, and such insurance on such credit commitments not exceeding one year in duration may be written up to the amount of the loan commitment on a nondecreasing or level term plan, but such insurance shall not exceed One Hundred Thousand Dollars (\$100,000.00) on any one life.

Revised Law

Sec. 1131.456. PAYMENT OF PROCEEDS. (a) The proceeds of the insurance must be payable to the policyholder.

(b) Payment to the policyholder reduces or extinguishes the debtor's unpaid indebtedness to the extent of the payment. In the case of a debtor under a loan or loan commitment described by Section 1131.455(b), any insurance proceeds in excess of the indebtedness to the creditor are payable:

- (1) to the debtor's estate; or
- (2) under a facility of payment clause. (V.T.I.C. Art. 3.50, Sec. 1(4)(d).)

Source Law

[Sec. 1]

(4) . . .

(d) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment; provided that in the case of a debtor for educational purposes or of a debtor with seasonal income, under a loan or loan commitment

for general agricultural or horticultural purposes of the type described in paragraph (a), the insurance in excess of the indebtedness to the creditor, if any, shall be payable to the estate of the debtor or under the provision of a facility of payment clause.

Revised Law

Sec. 1131.457. ANNUITIES AND ENDOWMENT INSURANCE PROHIBITED. The insurance issued may not include annuities or endowment insurance. (V.T.I.C. Art. 3.50, Sec. 1(4)(c).)

Source Law

[Sec. 1]

(4) . . .

(c) The insurance issued shall not include annuities or endowment insurance.

[Sections 1131.458-1131.500 reserved for expansion]

SUBCHAPTER K. GROUP LIFE INSURANCE POLICIES ISSUED TO
NONPROFIT ORGANIZATIONS OR ASSOCIATIONS: ADDITIONAL
REQUIREMENTS

Revised Law

Sec. 1131.501. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.060. (V.T.I.C. Art. 3.50, Sec. 1(10)(intro) (part).)

Source Law

[Sec. 1]

(10) A policy of group life insurance may be issued to a nonprofit service, civic, fraternal, or community organization or association which has had an active existence for at least two years, has a constitution or bylaws, was formed for purposes other than obtaining insurance, . . . subject to the following requirements:

. . . .

Revised Law

Sec. 1131.502. ELIGIBLE MEMBERS. All members of the organization or association, or all of any class of members determined by conditions relating to their membership in the organization or association, are eligible for insurance under the policy. (V.T.I.C. Art. 3.50, Sec. 1(10)(a).)

Source Law

[Sec. 1]

(10) . . .

(a) The persons eligible for insurance shall be all the members of the association, or all of any class thereof determined by conditions pertaining to membership in the association.

Revisor's Note

Section 1(10)(a), V.T.I.C. Article 3.50, refers to "the association." Subsequent provisions of Section 1(10) also refer to "the association." The language in Section 1(10) that precedes the portion revised as this section refers to "a nonprofit . . . organization or association." (See Section 1131.060.) For consistency, throughout this subchapter the revised law substitutes "organization or association" for "association."

Revised Law

Sec. 1131.503. PAYMENT OF PREMIUMS. (a) The policyholder must pay the premium from:

- (1) the policyholder's funds;
- (2) funds contributed by the employees or members specifically for their insurance; or
- (3) both the policyholder's funds and funds contributed by the employees or members.

(b) The policy may provide that the premium may be paid directly to the insurer by individual employees or members from their own funds. If the premium is paid as provided by this subsection, the respective employees or members become the premium payor for that particular certificate. (V.T.I.C. Art. 3.50, Sec. 1(10)(c).)

Source Law

[Sec. 1]

(10) . . .

(c) The premium for the policy shall be paid by the policyholder from the policyholder's own funds or from funds contributed by the employees or members specifically for their insurance, or from both. The policy may provide that the premium may be paid directly to the insurer by individual employees or members from their own funds, and in that event, the respective employees or members become the premium payor for that particular certificate.

Revised Law

Sec. 1131.504. MINIMUM ENROLLMENT. The policy must cover at least 25 individuals on the date the policy is issued. (V.T.I.C. Art. 3.50, Sec. 1(10)(d).)

Source Law

[Sec. 1]

(10) . . .

(d) The policy shall cover at least twenty-five
(25) persons at date of issue.

Revised Law

Sec. 1131.505. AMOUNTS OF INSURANCE. The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured members or by the organization or association. (V.T.I.C. Art. 3.50, Sec. 1(10)(b).)

Source Law

[Sec. 1]

(10) . . .

(b) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured members or by the association.

[Sections 1131.506-1131.700 reserved for expansion]

SUBCHAPTER O. GROUP LIFE INSURANCE POLICIES ISSUED TO OTHER
GROUPS: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.701. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy issued to a group described by Section 1131.064. (V.T.I.C. Art. 3.50, Sec. 1(6) (intro).)

Source Law

[Sec. 1]

(6) A policy issued to cover any other group subject to the following requirements:

. . . .

Revised Law

Sec. 1131.702. PAYMENT OF PREMIUMS. The premium for the policy must be paid from:

(1) the policyholder's funds;
(2) funds contributed by the insureds; or
(3) both the policyholder's funds and funds contributed by the insureds. (V.T.I.C. Art. 3.50, Sec. 1(6)(c).)

Source Law

[Sec. 1]

(6) . . .

(c) The premium for the policy shall be paid either from the policyholder's funds or from funds contributed by the covered person or from both.

Revised Law

Sec. 1131.703. INSURANCE FOR LIABILITIES RELATED TO FRINGE BENEFITS. (a) Notwithstanding any other law, an employer may insure the lives of the employer's officers, directors, employees, and retired employees under Section 1131.064 to and in an amount necessary to provide funds to offset liabilities related to fringe benefits.

(b) An employer shall submit evidence of the purpose of the policy to the commissioner.

(c) A policy issued for the purpose described by this section does not reduce any other life insurance benefits offered or provided by the employer. (V.T.I.C. Art. 3.50, Sec. 1(6)(d) (part).)

Source Law

[Sec. 1]

(6) . . .

(d) Notwithstanding other provisions of law, an employer may insure the lives of its officers, directors, employees, and retirees under this subdivision for the purpose of and in an amount necessary to provide funds to offset fringe benefit-related liabilities. Evidence of the purpose of the policy shall be submitted to the Commissioner of Insurance. A policy issued for such purpose shall not diminish other life insurance benefits if any are offered or provided by such employer. . . .

[Sections 1131.704-1131.750 reserved for expansion]

SUBCHAPTER P. WHOLESALE, FRANCHISE, OR EMPLOYEE
LIFE INSURANCE POLICIES: ADDITIONAL REQUIREMENTS

Revised Law

Sec. 1131.751. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a wholesale, franchise, or employee life insurance policy issued as provided by Section 1131.065. (V.T.I.C. Art. 3.50, Sec. 1(7) (intro).)

Source Law

[Sec. 1]

(7) No policy of wholesale, franchise or employee life insurance, as hereinafter defined, shall be issued or delivered in this state unless it conforms to the following requirements:

. . . .

Revised Law

Sec. 1131.752. PAYMENT OF PREMIUMS. (a) The premium for the policy must be paid:

(1) wholly from funds contributed by the employer or

employers of the insureds;

(2) wholly from funds contributed by the labor or credit union or unions; or

(3) partly from funds described by Subdivision (1) or (2) and partly from funds contributed by the insureds.

(b) An insured's contribution toward the cost of the insurance may not exceed 40 cents per month for each \$1,000 of insurance coverage. (V.T.I.C. Art. 3.50, Sec. 1(7)(c).)

Source Law

[Sec. 1]

(7) . . .

(c) The premium for the policy shall be paid either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions or by both, or partly from such funds and partly from funds contributed by the insured person, except that in no event shall the contribution by an insured person toward the cost of his insurance exceed forty cents per thousand per month.

Revised Law

Sec. 1131.753. MINIMUM ENROLLMENT. A policy of wholesale, franchise, or employee life insurance must cover at least five employees or members of a labor union or credit union on the date the policy is issued. (V.T.I.C. Art. 3.50, Sec. 1(7)(b) (part).)

Source Law

[Sec. 1]

(7) . . .

[(b) Wholesale, franchise or employee life insurance may be issued to (1) the employees of a common employer or employers,] covering at date of issue not less than five employees; [or (2) the members of a labor union or unions] covering at date of issue not less than five members; [or (3) the members of a credit union or credit unions] covering at date of issue not less than five (5) members.

Revised Law

Sec. 1131.754. AMOUNT OF INSURANCE. (a) An insurer may not issue a policy that provides wholesale, franchise, or employee term life insurance on an employee or member that, together with any other term life insurance policy issued on a wholesale, franchise, or employee or group basis, exceeds \$250,000, except that if the individual's annual compensation from the individual's employer or employers multiplied by seven exceeds \$250,000, the wholesale, franchise, or employee term life insurance may not exceed that computed amount.

(b) Subsection (a) does not apply if:

(1) the policy provides group insurance on other than the term plan;

(2) the insurance is to be used to fund benefits under a pension plan; and

(3) the amount of insurance does not exceed the amount required to provide, at the normal retirement date, the pension specified by the plan.

(c) Notwithstanding Subsection (a), a group policy that is issued by the same or another insurer to replace another group policy may provide term life insurance not to exceed the greater of:

(1) the amount provided by the policy that it replaces; or

(2) the amount provided by Subsection (a). (V.T.I.C. Art. 3.50, Secs. 1(7)(d) (part), (g).)

Source Law

[Sec. 1]

(7) . . .

(d) No policy may be issued on a wholesale, franchise or employee life insurance basis which, together with any other term life insurance policy or policies issued on a wholesale, franchise, employee life insurance or group basis, provides term life insurance coverage for an amount in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00), unless seven hundred percent of the annual compensation of such employee from his employer or employers exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), in which event all such term insurance shall not exceed seven hundred percent of such annual compensation. . . .

(g) The limitation as to amount of group and wholesale, franchise or employee life insurance on any person shall not apply to group insurance on other than the term plan where such insurance is to be used to fund benefits under a pension plan and the amount of such insurance does not exceed that required to provide at normal retirement date the pension specified by the plan, and except that a group policy which is issued by the same or another carrier to replace another group policy may provide term insurance not to exceed the amounts provided by the policy which it replaces, or the amounts provided above, whichever are greater.

Revisor's Note

Section 1(7)(d), V.T.I.C. Article 3.50, refers to "such employee." The language in Section 1(7) that precedes the portion revised as this section refers to "(1) the employees of a common employer or employers, . . . or (2) the members of a labor

union or unions, . . . or (3) the members of a credit union or credit unions." (See Section 1131.065.) For consistency, the revised law substitutes "employee or member" for "employee" throughout this subchapter.

Revised Law

Sec. 1131.755. INDIVIDUAL APPLICATION REQUIRED. (a) An insurer must take an individual application for each policy of wholesale, franchise, or employee life insurance.

(b) For purposes of Section 1131.754, the insurer is entitled to rely on the applicant's statements as to the applicant's other similar life insurance coverage. (V.T.I.C. Art. 3.50, Sec. 1(7)(d) (part).)

Source Law

[Sec. 1]

(7) . . .

(d) . . . An individual application shall be taken for each such policy and the insurer shall be entitled to rely upon the applicant's statements as to applicant's other similar coverage upon his life.

Revised Law

Sec. 1131.756. RIGHT TO INDIVIDUAL POLICY ON TERMINATION OF EMPLOYMENT OR MEMBERSHIP. (a) A policy of wholesale, franchise, or employee life insurance must contain in substance the provisions prescribed by this section.

(b) The policy must provide that, subject to Subsections (c) and (d), if the insurance on an individual insured under the policy ceases because the individual's employment or membership in the labor or credit union terminates, the individual is entitled to have the insurer issue to the individual an individual life insurance policy without disability or other supplementary benefits.

(c) An individual policy under this section must be issued without evidence of insurability.

(d) An individual must apply for an individual policy and pay the first premium to the insurer not later than the 31st day after the date the individual's employment or membership terminates. (V.T.I.C. Art. 3.50, Sec. 1(7)(e).)

Source Law

[Sec. 1]

(7) . . .

(e) Each such policy of insurance shall contain a provision substantially as follows:

A provision that if the insurance on an insured person ceases because of termination of employment or of membership in the union, such person shall be entitled to have issued to him by

the insurer, without evidence of insurability an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within thirty-one (31) days after such termination.

Revised Law

Sec. 1131.757. OPTIONAL POLICY PROVISIONS. A policy of wholesale, franchise, or employee life insurance may contain in substance provisions under which:

- (1) the policy is renewable at the option of the insurer only;
- (2) coverage by the insurer terminates on termination of employment or membership by the insured employee or member; or
- (3) an individual eligible for insurance must furnish evidence of individual insurability satisfactory to the insurer as a condition to coverage. (V.T.I.C. Art. 3.50, Sec. 1(7)(f).)

Source Law

[Sec. 1]

(7) . . .

(f) Each such policy may contain any provision substantially as follows:

- (1) A provision that the policy is renewable at the option of the insurer only;
- (2) A provision for termination of coverage by the insurer upon termination of employment by the insured employee;
- (3) A provision requiring a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as condition to coverage.

Revised Law

Sec. 1131.758. CERTAIN POLICIES AND PLANS UNAFFECTED. This subchapter does not impair or otherwise affect:

- (1) a policy issued before August 28, 1961;
- (2) a plan of wholesale, franchise, or employee life insurance in effect before August 28, 1961, if the plan was legal on the date policies were issued under the plan; or
- (3) a policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan, or similar plan of premium collection. (V.T.I.C. Art. 3.50, Sec. 1(7)(h).)

Source Law

[Sec. 1]

(7) . . .

(h) Nothing contained in this Subsection (7) shall in any manner alter, impair or invalidate (1) any policy

heretofore issued prior to the effective date of this Act; nor (2) any such plan heretofore placed in force and effect provided such prior plan was at date of issue legal and valid; nor (3) any policy issued on a salary savings franchise plan, bank deduction plan, pre-authorized check plan or similar plan of premium collection.

Revisor's Note

(1) Section 1(7)(h), V.T.I.C. Article 3.50, provides that nothing in that article shall "alter, impair or invalidate" certain insurance policies. The revised law substitutes "impair or otherwise affect" for "alter, impair or invalidate" because in this context, "impair or otherwise affect" is synonymous with the quoted phrase.

(2) Section 1(7)(h), V.T.I.C. Article 3.50, refers to insurance policies issued "prior to the effective date of this Act" and to plans of franchise life insurance "heretofore" placed in force (meaning issued or placed in force before the effective date of Section 1(7)(h)). Section 1(7) was added to Article 3.50 as Section 1(6) by Chapter 263, Acts of the 57th Legislature, Regular Session, 1961. That act took effect August 28, 1961. Accordingly, the revised law substitutes "before August 28, 1961" for "prior to the effective date of this Act" and "heretofore."

(3) Section 1(7)(h), V.T.I.C. Article 3.50, refers to a plan of franchise life insurance being "placed in force and effect." The reference to "placed" is omitted as unnecessary because if a policy is "in effect" before a specified date, it must have been "placed in effect" before that date. The reference to "in force" is omitted from the revised law because "in force" is included within the meaning of "in effect."

[Sections 1131.759-1131.800 reserved for expansion]

SUBCHAPTER Q. EXTENSION OF GROUP LIFE INSURANCE TO SPOUSES AND CHILDREN

Revised Law

Sec. 1131.801. APPLICABILITY OF SUBCHAPTER. This subchapter applies to any group life insurance policy issued and delivered under the laws of this state other than a policy issued and delivered to a creditor as provided by Section 1131.057 or other law providing for credit life insurance. (V.T.I.C. Art. 3.51-4A, Sec. 1 (part).)

Source Law

Art. 3.51-4A

Sec. 1. Insurance under any group life insurance policy issued and delivered pursuant to the laws of the State of Texas, except a policy issued and delivered to a creditor pursuant to Section 1(4) of Article 3.50 of the Texas Insurance Code or pursuant to any other law of the State of Texas providing for

credit life insurance,

Revised Law

Sec. 1131.802. EXTENSION OF GROUP LIFE INSURANCE TO SPOUSES AND CHILDREN; ELIGIBLE CHILDREN. Insurance under a group life insurance policy may be extended to cover:

(1) the spouse of each individual eligible to be insured under the policy; or

(2) a natural or adopted child of each individual eligible to be insured under the policy if the child is:

(A) younger than 21 years of age; or

(B) older than 21 years of age and:

(i) enrolled as a full-time student at an educational institution; or

(ii) physically or mentally disabled and under the parents' supervision. (V.T.I.C. Art. 3.51-4A, Sec. 1 (part).)

Source Law

Sec. 1. Insurance under any group life insurance policy . . . may be extended to cover the spouse, the children under 21 years of age, natural or adopted, and the children over 21 years of age, natural or adopted, who are enrolled as full-time students at an educational institution or are physically or mentally disabled and who are under the supervision of the parents, of each person eligible to be insured thereunder,

Revised Law

Sec. 1131.803. PAYMENT OF PREMIUMS. The premium for group life insurance extended to cover a spouse or child may be paid by:

(1) the group policyholder;

(2) the insured under the policy; or

(3) the group policyholder and the insured jointly.

(V.T.I.C. Art. 3.51-4A, Sec. 2.)

Source Law

Sec. 2. Premiums for the group life insurance on such spouse and children may be paid by the group policyholder or by each insured under the said policy, or by the group policyholder and each such insured jointly.

Revised Law

Sec. 1131.804. AMOUNTS OF INSURANCE. (a) The amounts of insurance under the policy must be based on a plan that precludes individual selection by the insured or the policyholder.

(b) The amount of insurance on the life of the spouse or a

child may not exceed the amount of insurance for which the insured is eligible under the policy. (V.T.I.C. Art. 3.51-4A, Sec. 1 (part).)

Source Law

[Sec. 1. Insurance under any group life insurance policy . . . may be extended to cover the spouse, the children under 21 years of age, natural or adopted, and the children over 21 years of age, natural or adopted, who are enrolled as full-time students at an educational institution or are physically or mentally disabled and who are under the supervision of the parents, of each person eligible to be insured thereunder,] provided that:

(1) the amounts of insurance under the policy are based on some plan precluding individual selection either by the insured or the policyholder; and

(2) the amount of such insurance on the life of the spouse or a child may not exceed the amount of the insurance for which the insured is eligible to be insured under said policy.

Revised Law

Sec. 1131.805. CONVERSION RIGHTS. On termination of group life insurance coverage for a spouse insured under this subchapter because the insured's employment terminates, the insured's eligibility for insurance terminates, or the insured dies, or because the group life insurance policy terminates, the spouse has the same conversion rights as to the group life insurance on the spouse's life as the insured. (V.T.I.C. Art. 3.51-4A, Sec. 3.)

Source Law

Sec. 3. Upon termination of the group life insurance with respect to the spouse of any such insured by reason of said insured's termination of employment, eligibility for such insurance, or death, or by termination of the group life insurance policy, such spouse shall have the same conversion rights as to the group life insurance on his or her life as is provided for the insured.

Revised Law

Sec. 1131.806. CERTIFICATE OF INSURANCE. Only one certificate of insurance issued for delivery to an insured is required if the certificate includes a statement concerning any spouse's or child's coverage. (V.T.I.C. Art. 3.51-4A, Sec. 4.)

Source Law

Sec. 4. Only one certificate need be issued for delivery to an insured if a statement concerning any spouse's and any child's

coverage is included in such certificate.

[Sections 1131.807-1131.850 reserved for expansion]

SUBCHAPTER R. CONTINUATION OF CERTAIN GROUP LIFE
INSURANCE DURING LABOR DISPUTE

Revised Law

Sec. 1131.851. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a group life insurance policy that is delivered or issued for delivery in this state and as to which any part of the premium is paid or is to be paid by an employer under the terms of a collective bargaining agreement. (V.T.I.C. Art. 3.51-8 (part).)

Source Law

Art. 3.51-8. [No] group life insurance policy . . . shall be delivered or issued for delivery in this state where the premiums or any part thereof is paid or is to be paid in whole or in part by an employer pursuant to the terms of a collective bargaining agreement

Revised Law

Sec. 1131.852. CONTINUATION OF GROUP LIFE INSURANCE DURING LABOR DISPUTE REQUIRED FOR CERTAIN POLICIES. An insurer may not deliver or issue for delivery a policy subject to this subchapter unless the policy provides that if the employees covered by the policy stop work because of a labor dispute, coverage continues under the policy, on timely payment of the premium, for each employee who:

(1) is covered under the policy on the date the work stoppage begins;

(2) continues to pay the employee's individual contribution, subject to the conditions provided by this subchapter; and

(3) assumes and pays during the work stoppage the contribution due from the employer, subject to the conditions provided by this subchapter. (V.T.I.C. Art. 3.51-8 (part).)

Source Law

Art. 3.51-8. No [group life insurance policy or group accident and health insurance policy shall be delivered or issued for delivery in this state where the premiums or any part thereof is paid or is to be paid in whole or in part by an employer pursuant to the terms of a collective bargaining agreement] unless the policy provides that in the event of a cessation of work by the employees covered by the policy as the result of a labor dispute, the policy upon timely payment of the premium shall continue in effect with respect to all employees insured by

the policy on the date of the cessation of work who continue to pay their individual contribution and who assume and pay the contribution due from the employer for the period of cessation of work, under the following conditions:

.

Revised Law

Sec. 1131.853. CONTRIBUTIONS IF POLICYHOLDER IS TRUSTEE.

(a) An employee's contribution for purposes of a policy as to which the policyholder is a trustee or the trustees of a fund established or maintained wholly or partly by the employer is the amount the employee and employer would have been required to contribute to the fund for the employee if:

- (1) the work stoppage had not occurred; and
- (2) the agreement requiring the employer to make contributions to the fund were in effect.

(b) The policy may provide that continuation of coverage is contingent on the collection of individual contributions by the policyholder or the policyholder's agent. (V.T.I.C. Art. 3.51-8, Subdivs. (b), (c) (part).)

Source Law

(b) If the policyholder is a trustee or the trustees of a fund established or maintained in whole or in part by the employer, the employee's contribution shall be the amount which he and his employer would have been required to contribute to the trust for such employee if (1) the cessation of work had not occurred and (2) the agreement requiring the employer to make contributions to the trust were in full force.

(c) The policy may provide that the continuation of insurance is contingent upon the collection of individual contributions . . . by the policyholder or the policyholder's agent with respect to policies referred to in Subdivision (b) above.

Revised Law

Sec. 1131.854. CONTRIBUTIONS IF POLICYHOLDER IS NOT TRUSTEE. (a) A policy as to which the policyholder is not a trustee or the trustees of a fund established or maintained in whole or in part by the employer must provide that the employee's individual contribution:

- (1) is the policy rate applicable:
 - (A) on the date the work stoppage begins; and
 - (B) to an individual in the class to which the employee belongs as provided by the policy; or
- (2) if the policy does not provide for a rate applicable to an individual, is an amount equal to the amount determined by dividing:

(A) the total monthly premium in effect under the policy on the date the work stoppage begins; by

(B) the total number of insureds under the policy on that date.

(b) The policy may provide that continuation of coverage under this subchapter is contingent on the collection of individual contributions by the union or unions representing the employees. (V.T.I.C. Art. 3.51-8, Subdivs. (a), (c) (part).)

Source Law

(a) If the policyholder is not a trustee or the trustees of a fund established or maintained in whole or in part by the employer, the policy shall provide that the employee's individual contribution shall be the rate in the policy, on the date cessation of work occurs, applicable to an individual in the class to which the employee belongs as set forth in the policy. If the policy does not provide for a rate applicable to individuals, the policy shall provide that the employee's individual contribution shall be an amount equal to the amount determined by dividing (1) the total monthly premium in effect under the policy at the date of cessation of work by (2) the total number of persons insured under the policy at such date.

(c) The policy may provide that the continuation of insurance is contingent upon the collection of individual contributions by the union or unions representing the employees for policies referred to in Subdivision (a) above and

Revised Law

Sec. 1131.855. PAYMENT OF CONTRIBUTION AND PREMIUM. A policy may provide that continuation of coverage for an employee under the policy is contingent on timely payment of:

- (1) contributions by the employee; and
- (2) the premium by the entity responsible for collecting the individual employee contributions. (V.T.I.C. Art. 3.51-8, Subdiv. (d).)

Source Law

(d) The policy may provide that the continuation of insurance on each employee is contingent upon timely payment of contributions by the individual and timely payment of the premium by the entity responsible for collecting the individual contributions.

Revised Law

Sec. 1131.856. PAST DUE PREMIUM. (a) A policy may provide that the continuation of coverage is contingent on payment of any premium that:

(1) is unpaid on the date the work stoppage begins;
and

(2) became due before the date the work stoppage begins.

(b) A premium described by Subsection (a) must be paid before the date the next premium becomes due under the policy. (V.T.I.C. Art. 3.51-8, Subdiv. (h).)

Source Law

(h) The policy may provide that, if a premium is unpaid at the date of cessation of work and such premium became due prior to such cessation of work, the continuation of insurance is contingent upon payment of such premium prior to the date the next premium becomes due under the terms of the policy.

Revised Law

Sec. 1131.857. INDIVIDUAL PREMIUM RATE INCREASE. (a) A policy may provide that, during the period of a work stoppage, an individual premium rate may be increased by an amount not to exceed 20 percent of the amount shown in the policy, or a greater percentage as approved by the commissioner, to provide sufficient compensation to the insurer to cover increased:

- (1) administrative costs; and
- (2) mortality and morbidity.

(b) If a policy provides for a premium rate increase in accordance with this section, the amount of an employee's contribution must be increased by the same percentage. (V.T.I.C. Art. 3.51-8, Subdiv. (e).)

Source Law

(e) The policy may provide that each individual premium rate shall be increased by any amount up to 20 percent, or any higher percent which may be approved by the commissioner, of that otherwise shown in the policy during the period of cessation of work in order to provide sufficient compensation to the insurer to cover increased administrative costs and increased mortality and morbidity. If the policy does provide for such an increase, this shall have

the effect of increasing the employee's contribution by a like percent.

Revised Law

Sec. 1131.858. PREMIUM RATE CHANGE NOT LIMITED. (a) This subchapter does not limit any right of the insurer under a policy to increase or decrease a premium rate before, during, or after a work stoppage if the insurer would be entitled to increase the premium rate had a work stoppage not occurred.

(b) A change in a premium rate made in accordance with this section takes effect on a date that is determined by the insurer in accordance with the terms of the policy. (V.T.I.C. Art. 3.51-8, Subdiv. (f).)

Source Law

(f) Nothing in this article shall be deemed to limit any right which the insurer may have in accordance with the terms of the policy to increase or decrease the premium rates before, during, or after such cessation of work if in fact the insurer would have had the right to increase the premium rate had the cessation of work not occurred. If such a premium rate change is made, it shall be effective, notwithstanding any other provisions of this article, on such date as the insurer shall determine in accordance with the terms of the policy.

Revised Law

Sec. 1131.859. LIMITATIONS ON CONTINUATION OF COVERAGE. This subchapter does not require the continuation of coverage under a policy for a period:

- (1) longer than six months after a work stoppage occurs;
- (2) beyond the time that 75 percent of the covered employees continue the coverage; or
- (3) as to an individual covered employee, beyond the time that the employee takes a full-time job with another employer. (V.T.I.C. Art. 3.51-8, Subdiv. (i).)

Source Law

(i) Nothing herein shall be deemed to require the continuation of any loss of time payments included in any such group accident and health insurance policy, nor of any other coverages beyond the time that 75 percent of the employees continue such

coverage or as to any individual employee beyond the time that he takes full-time employment with another employer; nor shall anything herein be deemed to require continuation of coverage more than six months after the cessation of work.

Revisor's Note

Subdivision (i), V.T.I.C. Article 3.51-8, provides that Article 3.51-8 does not require "the continuation of any loss of time payments included in any such group accident and health insurance policy." The quoted language is omitted from the revised law because as it applies to group accident and health insurance, Article 3.51-8 is not revised in this chapter.

Revised Law

Sec. 1131.860. OTHER PROVISIONS; COMMISSIONER APPROVAL REQUIRED. A policy may contain any other provision relating to continuation of policy coverage during a work stoppage that the commissioner approves. (V.T.I.C. Art. 3.51-8, Subdiv. (g).)

Source Law

(g) The policy may contain such other provisions with respect to such continuation of insurance as the Commissioner of Insurance may approve.

CHAPTER 1132. NOTICE OF RATE INCREASE FOR GROUP LIFE INSURANCE

Sec. 1132.001. NOTICE OF RATE INCREASE 1605

CHAPTER 1132. NOTICE OF RATE INCREASE FOR GROUP LIFE INSURANCE

Revised Law

Sec. 1132.001. NOTICE OF RATE INCREASE. (a) In this section, "insurer" means:

- (1) a life insurance company;
- (2) an accident insurance company;
- (3) a general casualty insurance company;
- (4) a mutual life insurance company;
- (5) a mutual or natural premium life insurance company;
- (6) a fraternal benefit society; or
- (7) a local mutual aid association.

(b) Not later than the 31st day before the date on which a premium rate increase takes effect on a group policy of life insurance delivered or issued for delivery in this state by an

insurer, the insurer shall give written notice to the policyholder of:

(1) the amount of the increase; and

(2) the date on which the increase is to take effect.

(c) An insurer that issues a group policy described by Subsection (b) to a multiple employer trust shall give the notice required by that subsection to the trustee or group policyholder.

(d) The notice required by this section must be based on coverage in effect on the date of the notice.

(e) This section may not be construed to prevent an insurer, at the request of a policyholder, from negotiating a change in benefits or rates after delivery of the notice required by this section. (V.T.I.C. Art. 3.51-10.)

Source Law

Art. 3.51-10. Not less than 30 days before the date on which a premium rate increase takes effect on a group policy of life, health, and accident and health or a group policy of life, health, and accident insurance delivered or issued for delivery in this state by a life, accident, health or casualty insurance company, mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service insurer, or local mutual aid association, the insurer shall give written notice of the premium rate increase to the policyholder or in the instance of a multiple employer trust to the trustee or group policyholder of the amount of such increase and the date on which the increase is to take effect. Such notice is also required for increases in subscriber charges and service fees under group policies or contracts or coverage provided by health maintenance organizations. Notice shall be based upon coverages in effect on the date of the notice and nothing contained herein shall be construed to prevent the insurer or health maintenance organization from negotiating changes in benefits and/or rates at the request of the policyholder after the required notice has been delivered.

Revisor's Note

(1) V.T.I.C. Article 3.51-10 applies to a premium rate increase on "a group policy of life, health, and accident and health or a group policy of life, health, and accident insurance delivered or issued for delivery in this state by a life, accident, health or casualty insurance company, mutual life insurance company, mutual insurance company other than life, mutual or natural premium life insurance company, general casualty company, Lloyds, reciprocal or interinsurance exchange, fraternal benefit society, group hospitalization service insurer, or local mutual aid association." The revised law omits the references to a group policy of health insurance, accident and health insurance, and life, health, and accident insurance because as Article 3.51-10 applies to group health and accident insurance, the article is not revised in this chapter. The revised law omits the references to several of the listed entities because they do not issue life insurance policies. Under Section 3, V.T.I.C. Article 3.01, revised in pertinent part as Section 841.001, a health insurance company provides insurance against "loss by reason of disability due to sickness or ill-health." Under V.T.I.C. Article 18.03, revised in pertinent part as Section 941.002, a Lloyd's plan insurer may not provide life insurance. Under V.T.I.C. Article 19.01, revised in pertinent part as part of Section 942.002, a reciprocal or interinsurance exchange may not provide life insurance. Under V.T.I.C. Articles 20.01 and 20.12, revised as part of Sections 842.001 and 842.259, a group hospital service corporation is formed to provide hospital care and may also provide indemnity benefits for medical and surgical care.

(2) V.T.I.C. Article 3.51-10, in the second sentence, requires a health maintenance organization to provide notice of increases in subscriber charges and service fees under group contracts. V.T.I.C. Article 3.51-10, in the third sentence, refers to negotiation of changes in benefits and rates

by an "insurer or health maintenance organization." The revised law omits the references to a health maintenance organization because as Article 3.51-10 applies to coverage under a health maintenance organization contract, the article is not revised in this chapter.

[Chapters 1133-1150 reserved for expansion]

SUBTITLE C. SPECIALIZED COVERAGES

CHAPTER 1151. INDUSTRIAL LIFE INSURANCE

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- Sec. 1151.003. APPLICABILITY OF CHAPTER TO POLICY PROVIDING
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[Sections 1151.063-1151.100 reserved for expansion]

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[Sections 1151.103-1151.150 reserved for expansion]